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DOCUMENTS

OF THE

CONSTITUTIONAL CONVENTION

OF THE

STATE OF VIRGINIA.

RICHMOND:

PRINTED AT THE OFFICE¹ OF THE NEW NATION.

1867.

COMMUNICATION
FROM
MAJOR-GENERAL SCHOFIELD,
WITH
ACCOMPANYING DOCUMENTS.

HEADQUARTERS FIRST MILITARY DISTRICT,
STATE OF VIRGINIA, Richmond, Va., Dec. 3, 1867.

To the President of the State Convention, Richmond, Virginia :

SIR : I have the honor to furnish herewith, for the information and action of the Convention, the following papers :

1st. Official copies, as published in General Orders from the War Department, of the Act of Congress passed March 2nd, 1867, entitled, " An Act to provide for the more efficient government of the rebel States," and the acts supplementary thereto, passed March 23rd and July 19th, 1867 ; which acts of Congress constitute the authority under which the Convention was called, and define its powers and duties. (A.)

2nd. A copy of General Orders No. 77, current series, from these Headquarters, giving the names of the delegates elected to the Convention, according to the returns of the officers who conducted the election. (B.)

3rd. Letters from Frederick S. Tukey, a candidate for delegate to the Convention from the election district composed of the counties of Augusta, Albemarle and Louisa, protesting against counting the ballots cast for James C. Southall, in the magisterial district of Augusta county, and claiming a seat as a delegate to this Convention ; together with the report of Mr. Thos. P. Jackson, President Board of Registration of Augusta county, on this subject. (C.)

4th. A letter from Messrs. N. A. Sturdivant, Marmaduke Johnson, Thomas J. Evans, Alex. H. Sands and William Taylor, protesting against counting the ballots cast in the First, Second and Third Wards of the city of Richmond, on account of the manner in which the election was conducted in those wards, and asking that they may be awarded seats in this Convention in place of James W. Hunnicutt, John C. Underwood, James Morrissey, Lewis Lindsay and Jos. Cox, with my reply thereto. (D.)

5th. A petition from certain citizens of Montgomery county, asking that the election of A. H. Flanagan as delegate to the Convention be set aside. (E.)

6th. Letters from John B. Eastham, of Louisa county, Samuel R. Seay, of Amelia county, and Robert S. Beasley, of Greene county, delegates elect to the Convention, tendering their resignations as such, with copies of my replies thereto. (F.)

7th. Copies of my replies to inquiries addressed me in reference to the eligibility to election as delegates to the Convention. (G.)

I shall be pleased to furnish the Convention with all information, and copies of all papers and documents in my possession, which may be required by you in your deliberations.

Very respectfully,

Your obedient servant,

J. M. SCHOFIELD,
Brevet Major-General, U. S. A.

A

GENERAL ORDERS, }
No. 10. }

HEADQUARTERS OF THE ARMY,
ADJUTANT GENERAL'S OFFICE,
Washington, March 11, 1867.

I. The following Act of Congress is published for the information and government of all concerned :

[PUBLIC—No. 68.]

AN ACT to provide for the more efficient government of the rebel States.

WHEREAS no legal State governments or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas and Arkansas; and whereas it is necessary that peace and good order should be enforced in said States until loyal and republican State governments can be legally established : Therefore—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That said rebel States shall be divided into military districts and made subject to the military authority of the United States as hereinafter prescribed ; and for that purpose Virginia shall constitute the first district ; North Carolina and South Carolina the second district ; Georgia, Alabama and Florida the third district ; Mississippi and Arkansas the fourth district ; and Louisiana and Texas the fifth district.

SEC. 2. And be it further enacted, That it shall be the duty of the President to assign to the command of each of said districts an officer of the army not below the rank of brigadier-general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

SEC. 3. And be it further enacted, That it shall be the duty of each officer, assigned as aforesaid, to protect all persons in their rights of person and property, to suppress insurrection, disorder and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals, and to this end he may allow local civil tribunals to take jurisdiction of and to try offenders, or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose, and all interference, under color of State authority, with the exercise of military authority under this act, shall be null and void.

SEC. 4. And be it further enacted, That all persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted ; and no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district, and the laws and regulations for the government of the army shall not be affected by this act, except in so far as they conflict with its provisions : Provided, That no sentence of death, under the provisions of this act, shall be carried into effect without the approval of the President.

SEC. 5. And be it further enacted, That when the people of any one of said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said State twenty-one years old and upward, of whatever race, color or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion, or for felony at common law; and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates; and when such constitution shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors for delegates; and when such constitution shall have been submitted to Congress for examination and approval, and Congress shall have approved the same; and when said State, by a vote of its legislature elected under said constitution, shall have adopted the amendment to the Constitution of the United States proposed by the Thirty-ninth Congress, and known as article fourteen; and when said article shall have become a part of the Constitution of the United States, said State shall be declared entitled to representation in Congress, and senators and representatives shall be admitted therefrom on their taking the oath prescribed by law; and then and thereafter the preceding sections of this act shall be inoperative in said State: Provided, That no person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States shall be eligible to election as a member of the Convention to frame a Constitution for any of said rebel States, nor shall any such person vote for members of such convention.

SEC. 6. And be it further enacted, That until the people of said rebel States shall be by law admitted to representation in the Congress of the United States, any civil government which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control or supersede the same; and in all elections to any office under such provisional governments all persons shall be entitled to vote, and none others, who are entitled to vote under the fifth section of this act; and no person shall be eligible to any office under any such provisional governments who would be disqualified from holding office under the provisions of the third article of said constitutional amendment.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

LA FAYETTE S. FOSTER,

President of the Senate pro tempore.

IN THE HOUSE OF REPRESENTATIVES,
March 2, 1867.

The President of the United States having returned to the House of Representatives, in which it originated, the bill entitled "An act to provide for the more efficient government of the rebel States," with his objections thereto, the House of Representatives proceeded, in pursuance of the Constitution, to reconsider the same, and

Resolved, That the said bill do pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest:

EDWARD McPHERSON,

Clerk H. R. U. S.

IN SENATE OF THE UNITED STATES,
March 2, 1867.

The Senate having proceeded, in pursuance of the Constitution, to reconsider the bill entitled "An act to provide for the more efficient government of the rebel States," returned to the House of Representatives by the President of the United States, with his objections, and sent by the House of Representatives to the Senate with the message of the President returning the bill,

Resolved, That the bill do pass, two-thirds of the Senate agreeing to pass the same.

Attest:

J. W. FORNEY,
Secretary of the Senate.

II. In pursuance of the act of Congress entitled "An act to provide for the more efficient government of the rebel States," the President directs the following assignments to be made:

First District, State of Virginia—to be commanded by Brevet Major-General J. M. SCHOFIELD. Headquarters, Richmond Va.

Second District, consisting of North Carolina and South Carolina—to be commanded by Major-General D. E. SICKLES. Headquarters, Columbia, S. C.

Third District, consisting of the States of Georgia, Florida and Alabama—to be commanded by Major-General G. H. THOMAS. Headquarters, Montgomery, Alabama.

Fourth District, consisting of the States of Mississippi and Arkansas—to be commanded by Brevet Major-General E. O. C. ORD. Headquarters, Vicksburg, Miss.

Fifth District, consisting of the States of Louisiana and Texas—to be commanded by Major-General P. H. SHERIDAN. Headquarters, New Orleans, La.

The powers of Departmental Commanders are hereby delegated to the above-named District Commanders.

BY COMMAND OF GENERAL GRANT:

E. D. TOWNSEND,
Assistant Adjutant-General.

OFFICIAL:

J. A. CAMPBELL, 2d. Lt. 5th U. S. Art'y, Brev't Lt. Col. U. S. A.,
Acting Assistant Adjutant-General.

GENERAL ORDERS, }
 No. 33. }

WAR DEPARTMENT,
 ADJUTANT GENERAL'S OFFICE,
 Washington, March 28, 1867.

The following Act of Congress is published for the information and government of all concerned:

[PUBLIC—No. 6.]

AN ACT supplementary to an act entitled "An Act to provide for the more efficient government of the rebel States," passed March second, eighteen hundred and sixty-seven, and to facilitate restoration.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That before the first day of Septem-

ber, eighteen hundred and sixty-seven, the commanding general in each district defined by an act entitled "An Act to provide for the more efficient government of the rebel States," passed March second, eighteen hundred and sixty-seven, shall cause a registration to be made of the male citizens of the United States, twenty-one years of age and upwards, resident in each county or parish in the State or States included in his district, which registration shall include only those persons who are qualified to vote for delegates by the act aforesaid, and who shall have taken and subscribed the following oath or affirmation: "I, ———, do solemnly swear, (or affirm,) in the presence of Almighty God, that I am a citizen of the State of ———; that I have resided in said State for ——— months next preceding this day, and now reside in the county of ———, or the parish of ———, in said State, (as the case may be); that I am twenty-one years old; that I have not been disfranchised for participation in any rebellion or civil war against the United States, nor for felony committed against the laws of any State, or of the United States; that I have never been a member of any State Legislature, nor held any executive or judicial office in any State and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I have never taken an oath as a member of Congress of the United States, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I will faithfully support the Constitution and obey the laws of the United States, and will, to the best of my ability, encourage others so to do, so help me God;" which oath or affirmation may be administered by any registering officer.

SEC. 2. And be it further enacted, That after the completion of the registration hereby provided for in any State, at such time and places therein as the commanding general shall appoint and direct, of which at least thirty days' public notice shall be given, an election shall be held of delegates to a convention, for the purpose of establishing a constitution and civil government for such State loyal to the Union, said convention in each State, except Virginia, to consist of the same number of members as the most numerous branch of the State Legislature of such State, in the year eighteen hundred and sixty, to be apportioned among the several districts, counties or parishes of such State, by the commanding general, giving to each representation in the ratio of voters registered as aforesaid as nearly as may be. The convention in Virginia shall consist of the same number of members as represented the territory now constituting Virginia, in the most numerous branch of the Legislature of said State in the year eighteen hundred and sixty, to be apportioned as aforesaid.

SEC. 3. And be it further enacted, That at said election the registered voters of each State shall vote for or against a convention to form a constitution therefor under this act. Those voting in favor of such a convention shall have written or printed on the ballots by which they vote for delegates, as aforesaid, the words "For a convention," and those voting against such a convention shall have written or printed on such ballots the words "Against a convention." The persons appointed to superintend said election and to make return of the votes given thereat, as herein provided, shall count and make return of the votes given for and against a convention; and the commanding general to whom the same shall have been returned shall ascertain and declare the total vote in each State for and against a convention. If a majority of the votes given on

that question shall be for a convention, then such convention shall be held as hereinafter provided; but if a majority of said votes shall be against a convention, then no such convention shall be held under this act: Provided, That such convention shall not be held unless a majority of all such registered voters shall have voted on the question of holding such convention.

SEC. 4. And be it further enacted, That the commanding general of each district shall appoint as many boards of registration as may be necessary, consisting of three loyal officers or persons, to make and complete the registration, superintend the election, and make return to him of the votes, list of voters, and of the persons elected as delegates by a plurality of the votes cast at said election; and upon receiving said returns he shall open the same, ascertain the persons elected as delegates according to the returns of the officers who conducted said election, and make proclamation thereof; and if a majority of the votes given on that question shall be for a convention, the commanding general, within sixty days from the date of election, shall notify the delegates to assemble in convention, at a time and place to be mentioned in the notification, and said convention, when organized, shall proceed to frame a constitution and civil government according to the provisions of this act and the act to which it is supplementary; and when the same shall have been so framed, said constitution shall be submitted by the convention for ratification to the persons registered under the provisions of this act, at an election to be conducted by the officers or persons appointed, or to be appointed, by the commanding general, as hereinbefore provided, and to be held after the expiration of thirty days from the date of notice thereof, to be given by said convention; and the returns thereof shall be made to the commanding general of the district.

SEC. 5 And be it further enacted, That if, according to said returns, the constitution shall be ratified by a majority of the votes of the registered electors qualified as herein specified, cast at said election, at least one-half of all the registered voters voting upon the question of such ratification, the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session, then immediately upon its next assembling; and if it shall moreover appear to Congress that the election was one at which all the registered and qualified electors in the State had an opportunity to vote freely, and without restraint, fear, or the influence of fraud; and if the Congress shall be satisfied that such constitution meets the approval of a majority of all the qualified electors in the State; and if the said Constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with; and the said constitution shall be approved by Congress; the State shall be declared entitled to representation, and senators and representatives shall be admitted therefrom, as therein provided.

SEC. 6. And be it further enacted, That all elections in the States mentioned in the said "Act to provide for the more efficient government of the rebel States," shall, during the operation of said act, be by ballot; and all officers making the said registration of voters and conducting said elections shall, before entering upon the discharge of their duties, take and subscribe the oath prescribed by the act approved July second, eighteen hundred and sixty-two, entitled "An act to prescribe an oath of office:" *Provided*, That if any person shall knowingly and falsely take and subscribe any oath in this act prescribed,

such person so offending, and being thereof duly convicted, shall be subject to the pains, penalties and disabilities which by law are provided for the punishment of the crime of wilful and corrupt perjury.

SEC. 7. And be it further enacted, That all expenses incurred by the several commanding generals, or by virtue of any orders issued, or appointments made by them, under or by virtue of this act, shall be paid out of any monies in the treasury not otherwise appropriated.

SEC. 8. And be it further enacted, That the convention for each State shall prescribe the fees, salary and compensation to be paid to all delegates and other officers and agents herein authorized or necessary to carry into effect the purposes of this act, not herein otherwise provided for, and shall provide for the levy and collection of such taxes on the property in such State as may be necessary to pay the same.

SEC. 9. And be it further enacted, That the word "article," in the sixth section of the act to which this is supplementary, shall be construed to mean "section."

SCHUYLER COLFAX,

Speaker of the House of Representatives.

B. F. WADE,

President of the Senate pro tempore.

IN THE HOUSE OF REPRESENTATIVES, U. S.

March 23, 1867.

The President of the United States having returned to the House of Representatives, in which it originated, the bill entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed March second, eighteen hundred and sixty-seven, and to facilitate restoration," with his objections thereto, the House of Representatives proceeded, in pursuance of the Constitution, to reconsider the same, and

Resolved, That the said bill do pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest:

EDWD. MCPHERSON,

Clerk H. R. U. S.

IN SENATE OF THE UNITED STATES,

March 23, 1867.

The Senate having proceeded, in pursuance of the Constitution, to reconsider the bill entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed March second, eighteen hundred and sixty-seven, and to facilitate restoration," returned to the House of Representatives by the President of the United States, with his objections, and sent by the House of Representatives to the Senate, with the message of the President returning the bill,

Resolved, That the bill do pass, two-thirds of the Senate agreeing to pass the same.

Attest:

J. W. FORNEY,

Secretary.

BY ORDER OF THE SECRETARY OF WAR.

E. D. TOWNSEND,

Assistant Adjutant-General.

HEADQUARTERS FIRST MILITARY DISTRICT,
STATE OF VIRGINIA, RICHMOND, VA., April 2, 1867.

OFFICIAL:

J. A. CAMPBELL, 2d. Lt. 5th U. S. Art'y, Brev't Lt. Col. U. S. A.,
Acting Assistant Adjutant-General.

GENERAL ORDERS, }
No. 71. }

WAR DEPARTMENT
ADJUTANT GENERAL'S OFFICE,
Washington, July 23, 1867.

The following Act and Resolution of Congress are published for the information and government of all concerned :

[I. PUBLIC—No. 27.]

AN ACT supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed on the second day of March, eighteen hundred and sixty-seven, and the act supplementary thereto, passed on the twenty-third day of March, eighteen hundred and sixty-seven.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is hereby declared to have been the true intent and meaning of the act of the second day of March, one thousand eight hundred and sixty-seven, entitled, "An act to provide for the more efficient government of the rebel States," and of the act supplementary thereto, passed on the twenty-third day of March, in the year one thousand eight hundred and sixty-seven, that the governments then existing in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas and Arkansas, were not legal State governments; and that thereafter said governments, if continued, were to be continued subject in all respects to the military commanders of the respective districts, and to the paramount authority of Congress.

SEC. 2. And be it further enacted, That the commander of any district named in said act shall have power, subject to the disapproval of the General of the Army of the United States, and to have effect till disapproved, whenever in the opinion of such commander the proper administration of said act shall require it, to suspend or remove from office, or from the performance of official duties and the exercise of official powers, any officer or person holding or exercising, or professing to hold or exercise, any civil or military office or duty in such district under any power, election, appointment or authority derived from, or granted by, or claimed under, any so-called State, or the government thereof, or any municipal or other division thereof; and upon such suspension or removal such commander, subject to the disapproval of the General as aforesaid, shall have power to provide, from time to time, for the performance of the said duties of such officer or person so suspended or removed, by the detail of some competent officer or soldier of the army, or by the appointment of some other person, to perform the same, and to fill vacancies occasioned by death, resignation, or otherwise.

SEC. 3. And be it further enacted, That the General of the army of the United States shall be invested with all the powers of suspension, removal, appointment, and detail granted in the preceding section to district commanders.

SEC. 4. And be it further enacted, That the acts of the officers of the army already done in removing, in said districts, persons exercising the functions of civil officers, and appointing others in their stead, are hereby confirmed: Provided, That any person heretofore or hereafter appointed by any district commander to exercise the functions of any civil office, may be removed, either by the military officer in command of the district, or by the General of the army. And it shall be the duty of such commander to remove from office, as aforesaid, all persons who are disloyal to the government of the United States, or who use their official influence in any manner to hinder, delay, prevent, or obstruct the due and proper administration of this act and the acts to which it is supplementary.

SEC. 5. And be it further enacted, That the boards of registration provided for in the act entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed March two, eighteen hundred and sixty-seven, and to facilitate restoration," passed March twenty-three, eighteen hundred and sixty-seven, shall have power, and it shall be their duty before allowing the registration of any person, to ascertain, upon such facts or information as they can obtain, whether such person is entitled to be registered under said act, and the oath required by said act shall not be conclusive on such question, and no person shall be registered unless such board shall decide that he is entitled thereto; and such board shall also have power to examine, under oath, (to be administered by any member of such board,) any one touching the qualification of any person claiming registration; but in every case of refusal by the board to register an applicant, and in every case of striking his name from the list as hereinafter provided, the board shall make a note or memorandum, which shall be returned with the registration list to the commanding general of the district, setting forth the grounds of such refusal or such striking from the list: Provided, That no person shall be disqualified as member of any board of registration by reason of race or color.

SEC. 6. And be it further enacted, That the true intent and meaning of the oath prescribed in said supplementary act is, (among other things,) that no person who has been a member of the Legislature of any State, or who has held any executive or judicial office in any State, whether he has taken an oath to support the Constitution of the United States or not, and whether he was holding such office at the commencement of the rebellion, or had held it before, and who has afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof, is entitled to be registered or to vote; and the words "executive or judicial office in any State," in said oath mentioned, shall be construed to include all civil offices created by law for the administration of any general law of a State, or for the administration of justice.

SEC. 7. And be it further enacted, That the time for completing the original registration provided for in said act may, in the discretion of the commander of any district, be extended to the first day of October, eighteen hundred and sixty-seven; and the boards of registration shall have power, and it shall be their duty, commencing fourteen days prior to any election under said act, and upon reasonable public notice of the time and place thereof, to revise, for a period of five days, the registration lists, and upon being satisfied that any person not entitled thereto has been registered, to strike the name of such person from the list, and such person shall not be allowed to vote. And such board shall

also, during the same period, add to such registry the names of all persons who at that time possess the qualifications required by said act, who have not been already registered; and no person shall, at any time, be entitled to be registered or to vote by reason of any executive pardon or amnesty for any act or thing which, without such pardon or amnesty, would disqualify him for registration or voting.

SEC. 8. And be it further enacted, That section four of said last-named act shall be construed to authorize the commanding general named therein, whenever he shall deem it needful, to remove any member of a board of registration and to appoint another in his stead, and to fill any vacancy in such board.

SEC. 9. And be it further enacted, That all members of said boards of registration, and all persons hereafter elected or appointed to office in said military districts, under any so-called State or municipal authority, or by detail or appointment of the district commanders, shall be required to take and to subscribe the oath of office prescribed by law for officers of the United States.

SEC. 10. And be it further enacted, That no district commander or member of the board of registration, or any of the officers or appointees acting under them, shall be bound in his action by any opinion of any civil officer of the United States.

SEC. 11. And be it further enacted, That all the provisions of this act and of the acts to which this is supplementary shall be construed liberally, to the end that all the intents thereof may be fully and perfectly carried out.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

B. F. WADE,

President of the Senate pro tempore.

IN THE HOUSE OF REPRESENTATIVES, U. S.,
July 19, 1867.

The President of the United States having returned to the House of Representatives, in which it originated, the bill entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed on the second day of March, eighteen hundred and sixty-seven, and the act supplementary thereto, passed on the twenty-third day of March, eighteen hundred and sixty-seven," with his objections thereto, the House of Representatives proceeded, in pursuance of the Constitution, to reconsider the same, and

Resolved, That the bill do pass, two-thirds of the House of the House of Representatives agreeing to pass the same.

Attest :

EDW'D McPHERSON,

Clerk H. R. U. S.

IN THE SENATE OF THE UNITED STATES,
July 19, 1867.

The Senate having proceeded, in pursuance of the Constitution, to reconsider the bill entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed on the second day of March, eighteen hundred and sixty-seven, and the act supplementary thereto, passed on the twenty-third day of March, eighteen hundred and sixty-seven," returned to the House of Representatives by the President of the

United States, with his objections, and sent by the House of Representatives to the Senate, with the message of the President returning the bill,

Resolved, That the bill do pass, two-thirds of the Senate agreeing to pass the same.

Attest :

J. W. FORNEY, *Secretary.*

By W. J. McDONALD, *Chief Clerk.*

II. [PUBLIC RESOLUTION—No. 36.]

JOINT RESOLUTION to carry into effect the several acts providing for the more efficient government of the rebel States.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of carrying into effect the above-named acts, there be appropriated, out of any money in the treasury not otherwise appropriated, the sum of one million dollars.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

B. F. WADE,

President of the Senate, pro tempore.

IN THE HOUSE OF REPRESENTATIVES U. S.,

July 19, 1867.

The President of the United States having returned to the House of Representatives, in which it originated, the resolution entitled "Joint Resolution to carry into effect the several acts providing for the more efficient government of the rebel States," with his objections thereto, the House of Representatives proceeded, in pursuance of the Constitution, to reconsider the [the] same, and

Resolved, That the joint resolution do pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest :

EDWARD McPHERSON,

Clerk H. R. U. S.

IN THE SENATE OF THE UNITED STATES,

July 19, 1867.

The Senate having proceeded, in pursuance of the Constitution, to reconsider the resolution entitled "Joint Resolution to carry into effect the several acts providing for the more efficient government of the rebel States," returned to the House of Representatives by the President of the United States, with his objections, and sent by the House of Representatives to the Senate, with the message of the President returning the resolution,

Resolved, That the resolution do pass, two-thirds of the Senate agreeing to pass the same.

Attest :

J. W. FORNEY,

Secretary.

By W. J. McDONALD,

Chief Clerk.

BY ORDER OF THE SECRETARY OF WAR :

E. D. TOWNSEND,

Assistant Adjutant General.

OFFICIAL :

J. A. CAMPBELL, 2d. Lt. 5th U. S. Art'y, Brev't Lt. Col. U. S. A.,

Acting Assistant Adjutant General.

B

GENERAL ORDERS, }
 No. 77. }

HEADQUARTERS FIRST MILITARY
 DISTRICT, STATE OF VIRGINIA,
 Richmond, Va., Nov. 2, 1867.

At the election held in the State of Virginia, on the 22d day of October, 1867, and following days, for delegates to a State Convention, and to take the sense of the registered voters upon the question whether such Convention should be held for the purpose of establishing a constitution and civil government for the State, loyal to the Union, one hundred and sixty nine thousand, two hundred and twenty-nine (169,229) votes were cast upon the question of holding a Convention, of which number one hundred and seven thousand, three hundred and forty-two (107,342) votes were cast "For a Convention," and sixty-one thousand eight hundred and eighty-seven (61,887) votes "Against a Convention."

The whole number of votes cast upon that question being a majority of the whole number of registered voters in the State, and the number of votes cast "For a Convention" being a majority of all the votes cast upon that question, the Convention will be held as provided by the Act of Congress of March 23d, 1867.

The Hall of the House of Delegates in the city of Richmond, and 10 o'clock A. M., on Tuesday, the 3rd day of December, 1867, are designated as the place and time for the meeting of the Convention.

The following delegates to the Convention were duly elected, according to the returns of the officers who conducted said election, and are notified to meet in Convention at the time and place above specified :

From the city of Richmond—James W. Hunnicutt, John C. Underwood, James Morrissey, Lewis Lindsay and Joseph Cox.

From the county of Norfolk and city of Portsmouth—James H. Clemments, Luther Lee, Jr., and George Teamoh.

From the county of Albemarle—C. L. Thompson and James T. S. Taylor.

From the county of Augusta—Powell Harrison and Joseph A. Waddell.

From the county of Bedford—Gaston G. Curtiss and David Staley.

From the county of Campbell—Samuel D. Williamson and Samuel F. Kelso.

From the county of Halifax—William L. Owen and David Canada.

From the county of Loudoun—Norborne Berkley and George E. Plaster.

From the county of Mecklenburg—Sanford M. Dodge and John Watson.

From the county of Pittsylvania—Levi C. Thayer and Herbert A. Wicker.

From the county of Rockingham—John C. Woodson and Jacob N. Leggitt.

From the city of Norfolk—Henry M. Bowden and Thomas Bayne.

From the city of Petersburg—James H. Platt, Jr., and Peter G. Morgan.

From the county of Alexandria—John Hawxhurst.

From the county of Amelia—Samuel R. Seay.

From the county of Amherst—John W. Broadus.

From the county of Botetourt—Lewis Linkenhoker.

- From the county of Brunswick—William Leahy.
From the county of Buckingham—Frank Moss.
From the county of Charlotte—Edward Nelson.
From the county of Culpeper—Fayette Mauzy.
From the county of Cumberland—John Robinson.
From the county of Fairfax—Orrin E. Hine.
From the county of Fluvanna—James D. Barrett.
From the county of Frederick—Norvell Wilson.
From the county of Goochland—William P. Mosely.
From the county of Hanover—William James.
From the county of Henrico—George W. Swan.
From the county of Henry—C. Y. Thomas.
From the county of Louisa—John B. Eastham.
From the county of Lunenburg—Samuel Fuqua.
From the county of Montgomery—Adam H. Flanagan.
From the county of Nansemond—William J. Parr.
From the county of Nelson—Adolphus W. Harris.
From the county of Nottoway—William H. Robertson.
From the county of Orange—Frederick W. Poor.
From the county of Princess Anne—Willis A. Hodges.
From the county of Southampton—John Brown.
From the county of Wythe—James Gibbony.
From the counties of Chesterfield and Powhatan—Charles H. Porter, Samuel F. Maddox and James B. Carter.
From the counties of Caroline, King George and Spottsylvania—John L. Marye, Jr., Frederick S. C. Hunter and John J. Gravatt.
From the counties of Accomac and Northampton—Edward K. Snead and James C. Toy.
From the counties of Bath, Highland and Rockbridge—William McLaughlin and Joseph Mayse.
From the counties of Carroll, Floyd and Grayson—William R. Dickey and F. A. Winston.
From the counties of Fauquier and Rappahannock—R. Taylor Scott and J. C. Gibson.
From the counties of Northumberland, Lancaster, Richmond and Westmoreland—Ephraim Nash and Richard S. Ayer.
From the counties of Patrick and Franklin—W. F. B. Taylor and M. F. Robertson.
From the counties of Prince Edward and Appomattox—Edgar Allan and James W. D. Bland.
From the counties of Prince George and Dinwiddie—David C. Carr and William Reed.
From the counties of Lee, Scott and Wise—Andrew Milbourn and Charles Duncan.
From the counties of Page and Shenandoah—Moses Walton and George W. Rust.
From the counties of Smyth and Washington—Joseph T. Campbell and John H. Thompson.
From the counties of Alleghany, Craig, and Roanoke—Hugh H. Lee.
From the counties of Charles City and New Kent—Lemuel E. Babcock.
From the counties of Clarke and Warren—Joseph McK. Kennerly.
From the counties of Elizabeth City and Warwick—David B. White.

From the counties of Gloucester and Mathews—John W. Dixon.

From the counties of Isle of Wight and Surry—William H. Andrews.

From the counties of King and Queen and King William—Edmund W. Massey.

From the counties of Madison and Greene—Robert S. Beasley.

From the counties of Middlesex and Essex—William Breedlove.

From the counties of Pulaski and Giles—Eustace Gibson.

From the counties of Russell and Buchanan—George R. Cowan.

From the counties of Stafford and Prince William—B. F. Lewis.

From the counties of Greenville and Sussex—Peter K. Jones.

From the counties of Bland and Tazewell—James Milton French.

From the counties of James City and York—Daniel M. Norton.

From the counties of Alexandria and Fairfax—Linus M. Nickerson.

From the counties of Amherst, Buckingham and Nelson—J. Henry Williams.

From the counties of Campbell and Pittsylvania—William H. Lydick.

From the counties of Charlotte and Halifax—Joseph R. Holmes.

From the counties of Hanover and Henrico—Burwell Toler.

From the counties of Augusta, Albemarle and Louisa—James C. Southall.

Each delegate elect will be furnished with an official copy of this order, which will constitute his certificate of election.

By command of Brigadier and Brevet Major-General SCHOFIELD.

S. F. CHALFIN,
Assistant Adjutant-General.

OFFICIAL:

J. A. CAMPBELL, 2d. Lt. 5th U. S. Art'y, Brevet Lt. Col. U. S. A.,
Acting Assistant Adjutant-General.

C

HEADQUARTERS MILITARY COMMISSIONER,

WOODSTOCK, VA., November 27, 1867.

COLONEL S. F. CHAPLIN,

Assistant Adjutant-General, (through sub-District, Winchester, Va.)

COLONEL :

I have the honor to return herewith letters of F. S. Tukey, and also a letter from the President Board of Registration of Augusta county, in which he gives an account of the manner in which the election was conducted in New Hope, Sixth District, Augusta county.

Respectfully, your obedient servant,

J. T. H. HALL,

Lieut. V. R. C. and Military Commissioner.

BUREAU OF REFUGEES, FREEDMEN AND ABANDONED LANDS,

OFFICE 4TH DIVISION, 9TH SUB-DISTRICT, VA.,

AND BOARD OF REGISTRATION FOR AUGUSTA COUNTY, VA.,

Staunton, Va., November 7th, 1867.

Colonel S. F. CHAPLIN, U. S. A., *Assistant Adjutant-General,**First Military District, State of Virginia, Richmond :*

COLONEL :

I have the honor to transmit enclosed herewith a letter from Mr. F. S. Tukey, who was a candidate at the election held October 22d, 1867, as a delegate at large from the counties of Augusta, Albemarle and Louisa.

The irregularity complained of did occur at the Sixth District, viz : not counting ballots before commissioners separated or even on the same day, and the ballot-boxes were also brought in unsealed ; for both which infractions of General Order No. 68, current series, Headquarters First Military District, I reproved the registering officer ; but as no objection was then made by either party, and the registering officer and three commissioners are men of high standing and well known integrity, I did not feel justified in rejecting the returns.

Being personally aware of the fact that the sixth district has the largest proportion of loyal Republicans of any district in the county, while Mr. Tukey, the Republican candidate, received but three votes, he thereby losing his election, I am constrained, in justice to that gentleman, to forward his letter with this brief explanation.

I have the honor to be, very respectfully,

Your obedient servant,

THOS. P. JACKSON,

President Board of Registration.

STAUNTON, VA., October 24th, 1867.

Major-General J. M. SCHOFIELD, Richmond, Va.:

GENERAL :

I most respectfully protest against the acceptance of the election returns from the sixth magisterial district of Augusta county, where it was conducted in direct violation of General Order No. 68, paragraph 12, which

requires that the vote shall be counted immediately on the closing of the polls, and returned to the ballot-box, and the box sealed. But on the contrary, the commissioners dispersed without counting the vote, leaving the boxes unsealed.

They were then carried to the house of one of the commissioners, kept over night unsealed, and the vote counted the following day; then brought a distance of ten miles to the court-house district unsealed.

It is evident to me that some fraud has been practiced in the district, as it is the largest Republican district in the county; yet, my competitor has one hundred and twenty-seven majority, which, if transferred to me, would secure my election. I think justice to me requires an investigation before the returns are accepted.

Having learned that the returns are to be forwarded by Mr. Thomas Leakey, registering officer for the county, I have thought proper to forward this communication by him in order that it might reach headquarters simultaneously.

Hoping it will meet your early attention,

I am, General, with much respect, your obedient servant,
FREDERICK S. TUKEY.

STAUNTON, AUGUSTA COUNTY, VA., Nov. 4th, 1867.

Major-General J. M. SCHOFIELD,

Commanding District No. 1, Richmond, Va. :

GENERAL :

I have the honor to state that a protest was forwarded to headquarters by me on the 24th ultimo, against the acceptance of the election returns of magisterial district No. 6, of this county, which was based upon the ground of a direct violation (by the commissioners) of G. O. No. 68, par. 12.

I have subsequently seen an official order, written in reply to a communication of Mr. J. H. Gilmer, in which you say the question of eligibility to seats in the Convention will be left entirely to the Convention itself, which seems to me to be both proper and just, except in cases where the point in dispute grows out of a direct violation of your own orders as to the manner of conducting the elections, as in my case, in which instance I think an investigation should be made in, order to ascertain whether the statements made in my communication of the 24th ultimo are correct or not, so that if they should prove to be correct the whole matter might be settled without the trouble of submitting it to the Convention.

I do not make these suggestions, however, in any spirit of criticism or dictation, but for the following reasons :

1st. I am led to believe that an order will soon be issued for the assembling of the Convention and the names of the candidates elected published therewith, and I desire that this matter should be fully understood before the order is issued.

2nd. I find by reference to the Code of Virginia of 1860, chapter 10, pages 95 and 96, that the law requires any person intending to contest the election of another as Senator or Delegate to the House shall, within a specified number of days, notify his opponent of his purpose to do so, and I presume this law holds good with reference to delegates elected to a Constitutional Convention, and I desire to know what action you will take in this case in season to give my opponent such notice as the law requires, provided it becomes necessary.

I am, General, with much respect,

Your obedient servant,

FREDERICK S. TUKEY.

STAUNTON, AUGUSTA COUNTY, VA.,
November 7th, 1867.

THOMAS P. JACKSON, ESQ.,

President Board Registration, Augusta County, Va :

SIR : I have the honor to state that I forwarded a communication to the Commanding General of this District, on the 24th ultimo, in which I respectfully protested against the acceptance of the election returns of the 6th magisterial district of this county. This protest was based upon the fact that the commissioners in charge acted in direct disobedience of General Order No. 68, paragraph 12, which requires that the ballots shall be counted immediately on the closing of the polls, and the boxes sealed and forwarded to county headquarters, but on the contrary, as soon as the polls were closed, the commissioners dispersed without counting the ballots, and the boxes were carried unsealed to the house of one of the commissioners, kept over night, the ballots counted the next day, and then brought to town still unsealed. That this was a direct violation of orders is perfectly plain, and the fact that the 6th district is the largest Republican district in the county, and the returns, as rendered by the commissioners only show four votes for me, and one hundred and thirty-one for the Conservative candidate, looks very much like foul play.

I addressed a second communication to the Commanding General, on the 4th instant, giving full reasons for so doing, and have received no reply to either, I now desire to ascertain if you have heard anything from him on this subject ; if not I respectfully ask that you will take such action on this communication as you think justice to me demands.

I am, sir, very respectfully, your obedient servant,

FREDERICK S. TUKEY.

BOARD OF REGISTRATION, STAUNTON, AUGUSTA COUNTY, VA.,
November 25th, 1867.

Lieutenant J. T. H. HALL,

U. S. A. C. and Military Commissioner, Woodstock :

LIEUTENANT :

I have the honor to submit the following report on protest of Frederick S. Tukey, dated October 24, 1867. I have seen Charles Bates, Registering Officer, 6th District, New Hope, Augusta county, and Henry K. Eakle, one of the three commissioners of election, and find the facts, as set forth by Mr. F. S. Tukey in his protest, are correct. Section 12, General Order No. 68, current series, Headquarters First Military District, was infringed as follows :

Ballots deposited in the box were afterwards taken therefrom and altered by the parties who had deposited them, from "F. S. Tukey" to "George W. Gordon, Jr." The ballots cast were not counted immediately upon the closing of the polls, but remained uncounted until the following morning, October 23, 1867. The boxes remained in charge of the registering officer, Charles Bates, from the close of the polls until the counting of the vote on the morning of the 23d October, and after the ballots were counted, in the presence of the registering officer and three commissioners, the certificates of election and ballot boxes were brought to this office, by Mr. Bates, unsealed.

For this negligence I censured Mr. Bates at the time, but as no objection was made by any one, and I had no reason to apprehend intentional omission or wrong, I accepted the returns from the 6th district, and included them in the aggregate return of the vote for the county.

When the returns and boxes were received by me, I was not aware that tickets had been taken from the box after being deposited, and I find further, that the change of tickets was made by parties outside the place where the poll was held, and who were not in the interest of, or acting for, Mr. J. C. Southall, the Conservative candidate.

The ballot boxes are now sealed, in this office, but as opening them would not show anything different from the returns, and I cannot secure the attendance of the three commissioners, to be present when opened, unless authorized to call upon them, I have not made a count of the ballots cast at the 6th District, New Hope, Augusta, but will do so if you so direct.

Very respectfully,

THOMAS P. JACKSON,
Agent B. R., F. and A. L., and President B. of R.

D

PROTEST OF THE CONSERVATIVE CANDIDATES FROM THE CITY
OF RICHMOND, AGAINST THE CONFIRMATION OF THE PRO-
CEEDINGS AT THE ELECTION ON THE 23^d AND 24th DAYS OF
OCTOBER, 1867.

RICHMOND, October 31, 1867.

Major-General SCHOFIELD:

SIR—A sense of duty to the people of Richmond who honored us with their votes, to our city and our State, impels us to address you this communication. To have discharged this duty at an earlier day might have subjected us to the imputation of acting under the undue excitement of a warm political canvass. Time enough has now elapsed for cool reflection; and after calmly reviewing the manner in which the recent election for delegates to the Convention was conducted in this city, we feel constrained, in the name of the people of Richmond, a law-loving and law-abiding people, respectfully, but earnestly, to enter a protest in their behalf, and in our own, against the confirmation of the proceedings at the so-called election on the 23d and 24th days of this month

We beg leave to state our reasons for entering this protest:

The election was held under your order, of date 12th September 1867, declaring that it should be held in Richmond city on the 22d and 23d days of October, and should close at sunset of the 23d October. This order, in conformity with the act of Congress, was published thirty days before the election was held. It specified the beginning and the close of the election in clear and definite terms, and after its promulgation, no power known to the statutes of Congress could legally change either the times or the places of election, without again complying with the act of Congress, and giving full thirty days' notice of such change. A change was made without such notice. At sunset of the 23d October, the polls were not closed as required by your published order, but they were continued through the following day, and the hour of midnight was reached before the polling of votes ceased. We claim that this extension of the period of voting was irregular and illegal, without precedent in the history of popular elections in this country, and without authority, and we insist that the persons elected at the closing of the polls at sunset of the 23d October, are entitled to the return as delegates to the Convention. Fortunately there is no difficulty in ascertaining the vote as it stood then. At that time 4,773 white votes had been polled, and 4,252 black votes. Giving to the Radical ticket all the white votes they received during the whole voting—say 48—and crediting them with the entire black vote up to that time—say 4,300—they will still be found to be in the minority several hundred votes. These protestants having then received of white votes alone (not counting the black votes), From this exhibit it is clear that these protestants are entitled to the return as delegates to the Convention.

The majority claimed by the Radical ticket was in consequence of irregularities we will now mention—such irregularities, we may confidently say, as were never before permitted or known in the United States.

The voting was continued into two nights, and into one of them until midnight, and after. From sunrise to sunset, by daylight, all elections in this country have hitherto been held. The reason for this rule is obvious. The voter should vote at a time when he can be seen and recognized, and unless he votes at such time there can be no guarantee against fraud. If there was necessity or law for keeping the polls open beyond the two days prescribed in your order, we submit that they should have been kept open in the day time only.

The polls were closed at some of the wards or precincts at sunset of the second day of election, and kept open at others; and the ward at which they were kept open the longest, (till midnight, certainly of the third day), was the ward in which the disproportion between the white and black voters in favor of the blacks, was greater than in any other ward in the city. If kept open in one they should have been kept open in all the wards. Just here permit us to call your attention to a fact which is its own comment. From the hour of 7 o'clock, P. M., when it was dark, on the third day, to the hour of closing the polls that night, there were more black votes polled than were polled at the same place on any one of the three preceding days, although the period of voting on each day was longer, by several hours, than the time occupied on that night.

The election in Madison Ward was held at the City Hall. The whites voted at a window on one side of the building, the blacks at a window on another side of the building. About sunset of the 23d October, the second day of the election, one of the officers having charge of the election inside the building, announced that the polls were closed, and pulled down the window at which the whites voted. The white voters went away, supposing that the voting of blacks, as well as of whites, was ended at that ward. At the very moment this announcement of the closing of the polls was made, the blacks on the other side of the building were voting, and continued to vote for more than an hour afterwards. This matter was called to your attention at the time, and you checked the illegal voting by the order to close the polls for that day. During the interval, however, more than seventy black votes had been polled.

A black man offered to vote on one of the days of election. His name could not be found on the register. He came back the next day and again offered to vote. He was reminded of his rejection the day before. He admitted the fact, but said that he had been since "to Mr. Hunnicutt's office," and got registered; and he further stated that he had left a large number of colored people "at Mr. Hunnicutt's office" getting registered. This black was arrested for an attempt to vote illegally, and is now, as we are informed, before a Military Commission for trial. This case is specially cited to illustrate the fraudulent manner in which the election was managed.

No white man, by threat or intimidation, or otherwise, improperly interfered with any black to influence his vote. Great order prevailed among the whites during the three days voting, although many things occurred which were well calculated to excite them. But on the part of black men there was such interference with voters of their own race. Threats, intimidation, actual violence, in more than once instance, attest this fact. The blacks were not allowed the freedom of choice. They voted under a duress amounting almost to compulsion. At some of the voting places, if not at all, the tickets of the black men, while in line approaching the polls, were examined, and when one was found with a Conservative ticket in hand, the ticket was taken from him and torn up. This occurred repeatedly, as we have been informed, and verily

believe. Force and violence were used by black men upon blacks, to prevent their voting the Conservative ticket. Their lives were threatened, and would have been taken in several cases, but for the interference of white men and the police. The truth is, a reign of terror ruled the black men in this election—a reign inaugurated by their own leaders and secret organizations.

A majority secured by such irregularities as these should not be regarded. They were illegal and in contravention of the law of Congress under which the election was had, and the purpose of the act of Congress should not be frustrated by such action.

We claim to be fairly entitled to the return as delegates to the Convention, because at the close of the polls at sunset of the second day, we had received a majority of the votes cast, and we must respectfully insist that the return should be given to us.

If you, sir, shall take the view of the matter which we insist is the legal and right view, there can be no doubt of our title to the return; and it seems to us, with all due respect, that you are the proper person to decide this question, and to decide it now. We do not desire to be remitted to the Convention. That body, when it meets, will hardly devote time enough to the investigation of the facts, and it is unnecessary to say that we could not expect from it that cool, deliberate, and impartial hearing which your official conduct leads us to expect from yourself. Strike from the polls all illegal votes, whether illegal because not cast at the proper time, or because cast by unauthorized voters, and we believe that the majority will be largely in favor of the return of these protestants.

It is proper to say that on the night of the second day's voting some of us had agreed on a protest against the extension of the time of voting, but the lateness of the hour at which it was prepared prevented our obtaining the signatures of all the Conservative candidates, and its being forwarded to you. After the voting on the third day and night was concluded, we thought it proper, in a matter of such grave moment, involving questions of such importance, to deliberate before entering this protest. We do so now as an act of cool, unimpassioned judgment. In taking this step, if we know ourselves, we are not stimulated by any motive of personal ambition, but are solely influenced by the desire for equal and exact justice. Our fellow-citizens, as well as we, feel aggrieved by the methods and the wrongs of the recent election, and we have, in their behalf and in our own, stated, in all frankness, the reasons for protesting against it. Hoping that it will be your pleasure to give the return to those who, we believe, are fairly entitled to it, we have the honor, sir, to subscribe ourselves,

Your obedient servants,

THOMAS J. EVANS,
ALEXANDER H. SANDS,
N. A. STURDIVANT,
MARMADUKE JOHNSON,
WILLIAM TAYLOR.

OFFICIAL:

J. A. CAMPBELL. 2d Lt. 5th Art'y, Brevet Lt. Col. U. S. A.,

Acting Assistant Adjutant-General.

REPLY OF MAJOR-GENERAL SCHOFIELD TO THE PROTEST OF
THE CONSERVATIVE CANDIDATES FROM THE CITY OF RICH-
MOND, AGAINST THE CONFIRMATION OF THE PROCEEDINGS
AT THE ELECTION ON THE 23^d AND 24th DAYS OF OCTOBER,
1867.

HEADQUARTERS FIRST MILITARY DISTRICT,
STATE OF VIRGINIA, Richmond, Va., Nov. 7, 1867.

Messrs. Thos. J. Evans, Marmaduke Johnson, N. A. Sturdivant,

Alexander H. Sands and William Taylor, Richmond, Va. :

GENTLEMEN :

I have received your communication, dated October 31, in which you "enter a protest against the confirmation of the proceedings at the so-called election on the 23d and 24th days of October last," and state at length the grounds of such protest.

The subject of your communication has received the careful consideration which its importance demands, and I will reply in that full and unreserved manner to which the dignified and dispassionate tone of your protest is entitled.

Your protest is based upon two distinct grounds : First, the extension of the time for voting beyond the hour designated in the order calling the election—which extension you regard as unauthorized and illegal ; and, second, that by fraud, violence and intimidation, votes were illegally cast, and qualified voters prevented from voting the ticket of their choice. I will consider these two grounds separately.

It is only necessary to refer to sections 10 and 11 of the act of Congress of July 19, to show that ample authority existed for the extension of the time for voting, if, in my opinion, such extension was necessary, "to the end that all the intents" of the three acts of Congress might "be fully and perfectly carried out." And what was the evident intent of so much of the act of Congress as prescribed the mode of conducting the election? And what the reason for requiring that thirty days' notice of time and places should be given? Certainly, that every registered voter might have timely information and ample opportunity to cast his ballot. Had the time of voting been shortened, without due notice, then your protest would have been well founded. But can any qualified voter say he was deprived of his ballot by a prolongation of the time? The simple and undeniable fact was that at the hour appointed for closing the polls (sunset of the 23d,) large numbers of qualified voters had failed, from no fault of their own, to cast their ballots, and were patiently waiting at the polls. Suppose I had closed the polls at sunset of the 23d, and thus deprived several hundred suffragans of their right to vote, would that have been a liberal construction of the acts of Congress, fully and perfectly carrying out the intents thereof?

Waiving technicalities of law, what is the essence of the principle upon which your claim is based, that the voting at an election must be limited to the time originally specified? I believe it may be fairly stated thus—"That party is entitled to the victory which can poll the greatest number of votes in a given number of hours." I will not do you so great injustice as to suppose that you intended to announce such a principle as the basis of your protest. Your own laws (see Virginia Code of 1860, page 82,) wisely guard against such a wrong, by requiring that if the votes cannot all be polled before sunset, or if the voters are prevented from attending by rain or rise of water courses, the polls shall be

kept open for three days. The laws of the States of Arkansas, Illinois, Iowa and Pennsylvania have similar provisions. In the latter State the polls are habitually kept open after sunset in large cities, and in the State of Illinois it is provided "that the judges of the election may, if they shall deem it necessary for the purpose of receiving the votes of all the electors wishing to vote, postpone the closing of the polls until 12 o'clock at night." No doubt the laws of other States are similar, but I have not time to examine them. The precedents given are ample to justify the keeping open the polls in Richmond on the 24th of October, and after sunset on the 23d and 24th, and to show that the extension of the time for voting in Richmond was *not* "unprecedented." I think it must be admitted that there was ample authority, of both law and precedent, for the voting done in Richmond after sunset of October 23d, and that it was demanded by fairness and justice. Hence, if your protest can be sustained at all it must be sustained upon the alleged illegal balloting and illegal prevention of balloting. In the interest of truth and justice, I will cheerfully give you all the aid in my power to develop the facts in regard to this matter.

But I must here premise that you, in common with many others of all parties, over-estimate my powers and duties in this regard. It is unnecessary to inquire whether a technical construction of the laws of Congress might not give the District Commander power over this whole subject. I am not at liberty to be governed by such technical construction, but must construe the laws under which I am acting with reference to their general intent and purpose, and with reference to the fundamental principles of American Government.

The clear intent and purpose of the laws of Congress were to give the people of this State (excluding the disfranchised) a fair and free opportunity to "establish a Constitution and civil government for the State loyal to the Union," with such form of Constitution as they might freely select, subject only to the conditions prescribed by Congress. This was to be done in the usual manner, through the agency of a representative Convention, whose acts should be subject to the free ratification or rejection of the people, and, if ratified by them, then to final acceptance or rejection by Congress.

It is a fundamental principle of representative government, as universally recognized and observed in this country, that every legislative body shall be the sole judge of the "elections, returns and qualifications of its own members." This is not a mere granted power. It is an essential, inherent right. Without it, a representative body, as that term is understood in this country, could not exist. Especially is this true of a Constitutional Convention which is to frame the fundamental law of a State. Without such power, whom would such a body represent? Certainly not the people, but more nearly the single functionary in whom was lodged that power of judgment.

But the language of the law of March 23d is also clear on this subject, and is in exact conformity with the principles above enunciated. It is as follows: "And upon receiving said returns he (the District Commander) shall open the same, ascertain the persons elected as delegates according to the returns of the officer who conducted said elections, and make proclamation thereof," &c. This language is too clear to leave any doubt as to the limit of my powers and duties in reference to the matter.

While I cannot, for the reasons I have stated, take judicial action upon the second ground of your protest, and while I am unable to admit the existence of a reasonable doubt that my action in extending the time of election was not

only justified by the law and by precedent, but required by the law, by precedent, and by every principle of justice and fairness, I will submit to the Convention, when it assembles, the question of your title to seats therein ; and I will, moreover, give to both parties, if they desire it, every facility and aid in my power to enable them to prepare, in advance, a full exposition of the facts in the case, to the end that they may be ready to present them to the Convention upon its assembling. Fortunately, it is not impossible, though it may cost much labor and trouble, to ascertain the truth of the whole matter.

While I do not wish to anticipate the result of any investigation that may be made, it is proper for me now to notice, so far as my present knowledge enables me, the circumstances specifically referred to in your protest.

You refer to the fact that the polls were closed at the appointed time in two of the wards, while they were kept open in others, and think they ought to have been kept open in all, if in any. The voting had almost ceased some time before sunset in two of the wards, and nearly all of the registered voters had voted. Why then keep open the polls longer than sunset in these two wards? I can see no reason, unless to give time to hunt up representatives for absent or deceased voters. If legal voters had failed to come to the polls during the appointed time, they had forfeited their right to vote at that election. And in the two wards referred to there was ample time for all to vote in the two days appointed. But in the other three wards two days were not sufficient. The voters were at the polls, in large numbers, waiting an opportunity to vote, at sunset. Whatever fault had been committed was mine, in not giving sufficient time, and mine was the duty to apply the remedy.

You object to the fact that the polls were kept open the longest in the ward where the disproportion between the white and black voters, in favor of the blacks, was the greatest. To this it is sufficient to answer that the polls were kept open, in each and every ward, until all registered voters who were present had voted, and no longer.

You also call attention to the alleged fact, which you think to be "its own comment," that "from 7 o'clock, P. M., on the third day, until the hour of closing the polls that night, there were more black votes polled than were polled at the same place on any one of the preceding days, although the period of voting on each day was longer by several hours than the time occupied on that night." Your understanding of the facts differs materially from the official report of the officers in charge of the polls. According to that report, the rate of voting during the night of the 24th was somewhat more rapid than during the days of the 22d and 24th, but less rapid than on the 23d.

The reason why it was more rapid in the night than during the day of the 24th I will explain, and the conclusion to be drawn from the facts of the case is quite the reverse of the one you appear to have drawn. I visited the polls you refer to (that of the third ward) about sunset, and watched the balloting for a considerable length of time. I found the officers working very slowly, and consuming very much time in examining the registration records and files of oaths for the purpose of deciding, without possibility of error, the large number of doubtful cases that came before them. There were several hundred persons waiting at the polls to vote, and it seemed doubtful whether, at the then rate of progress, the voting could be finished that night. Believing from my own observation that the officers were more particular than their duty required, I

ordered them to reject, at once and without delay, the votes of all persons who were not clearly entitled to vote, and thus give to those who were clearly so entitled an opportunity to vote before their powers of endurance should be entirely exhausted. Many of them had been standing several hours waiting for their turn, and if voting were not expedited some of them would be compelled to wait all night; for I had, at sunset, placed a line of sentinels around the crowd of voters, and ordered that none should be admitted after that time, and hence if any person left the polls after sunset he could not return. It is but right to add that this course was taken upon the representations of gentlemen of the "Conservative" party, that the extension of the time for voting was being availed of by the other party for the purpose of polling fraudulent votes. The result of my order was that the voting after sunset was more rapid than before, and it may be reasonably inferred that a larger number of votes were rejected than would have been but for such orders.

I will here add that the slow balloting of the colored voters in general, and consequent necessity for extension of time, arose from the great fidelity with which the officers of the election discharged their duty, the result of which was the rejection of several hundred votes, many of them, I am fully satisfied, of persons who had actually and legally registered, but which had to be rejected because of some defect in the registration, or imperfect memory of the voter.

What you state in reference to the closing of the polls for white voters in Madison ward, while the polls for colored were kept open, is proper subject for full investigation. I can only say now that the brief investigation made by me on the spot, not more than two or three hours after the alleged occurrence, failed entirely to sustain your allegation. All the officers of election, and the police officer in charge at the window, unanimously declared that no such announcement was given by any officer of the election, nor any other person in the room, and that in fact the poll was not closed.

It may be pertinent to remark, as bearing upon the importance to be attached to this matter, that the voting at the polls for whites had almost ceased some time before sunset, that several hours of the next day were given them to vote, and that, at most, only fifty-six white registered voters in that ward, out of a whole number of fifteen hundred and fifteen, failed to vote. I do not think it will be seriously alleged that any white voter in that ward was deprived of his right to vote.

"To illustrate the fraudulent manner in which the election was managed," you cite specially the case of a black man whose vote was rejected one day, and who applied to vote the following day, saying he had, in the meantime, been registered "at Mr. Hunnicutt's office." The facts referred to in this matter are as follows: On the first day of the election it was reported to me that large numbers of colored voters, who had undoubtedly registered, were being rejected at the polls, and I was appealed to to remedy the evil. I directed that the names, residence and a full description of all such persons be taken down and sent to me, and I would cause justice to be done in the matter as far as possible. My intention was simply to secure, while it could be done, the information necessary to a correct judgment, in case the election should be contested, as to how much wrong, if any, had been done; but the not unnatural inference of interested parties was, that I intended to compare the lists thus furnished me with the registration records, see if the rejected persons were really entitled to vote, and if so entitled, to send the lists to the polls with orders that their votes

be received. Hence, persons so "registered" were given ballots and sent back to the polls. Of course, the lists of these persons were not sent to the polls, and the so-recently "registered voter" was no better able to vote than before. It is not alleged by you, and I have no reason to believe, that any one of the persons "registered at Mr. Hunnicutt's office" did actually vote. And I submit that the case you cite, so far from illustrating "the fraudulent manner in which the election was managed," proves very clearly the absence of any such fraud as you have imagined.

That threats, intimidation and actual violence in more than one instance were, as you allege, resorted to by blacks, to control the votes of persons of their own race, is no doubt true. Whether the effect was to change any considerable number of votes may be difficult to determine, but is certainly a legitimate subject for investigation; and if it appear that such has been the effect, it will be just ground for contesting the election. It is due to yourselves and to the people of Richmond for me to say that, from all the information I have yet been able to obtain, I believe the number of votes thus illegally controlled was quite insignificant. Indeed, it may well be doubted which was least effectual in preventing absolute freedom of election—the threats of physical violence on the part of the blacks, or the threats of deprivation of labor, and consequent starvation, so freely made by the whites before the election, and, in many instances, executed since.

The registration in Richmond was made more than three months before the election, and was twice revised after due public notice. The lists of voters, with residence and full description, were printed and published immediately after the first registration. All persons were invited, and many personally solicited, to scrutinize those lists, and report the names of persons illegally registered. Yet not a single name was so reported. Under these circumstances, I submit it to your candid judgment whether complaints of illegal registration, or of a colored majority in the election, are at all reasonable?

I desire, gentlemen, to assure you of my high personal regard, and to express my gratification that the important subject of your protest has been presented to me in such form and from such source as to justify me in giving it this full consideration.

Your obedient servant,

J. M. SCHOFIELD.

Major-General.

OFFICIAL:

J. A. CAMPBELL, 2d Lt. 5th Art'y, Brevet Lt. Col. U. S. A.,

Acting Assistant Adjutant-General.

E

CHRISTIANSBURG, MONTGOMERY COUNTY, VA., November 4, 1867.

Major-General J. M. SCHOFIELD, *Commanding First Military District* :

Your petitioners, voters of Montgomery county, would respectfully ask you to set aside the election lately held in this county for a delegate to the Convention. We would respectfully represent that A. H. Flanagan, returned as the delegate elect, is ineligible to a seat in said Convention, under the "Reconstruction laws of Congress," and your orders made and published pursuant thereto, by reason of his having held office prior to the war, and as such officer, took an oath to support the Constitution of the United States, and afterwards voluntarily aided and abetted the rebellion. We herewith enclose ample testimony to prove these points, and we further pledge ourselves to prove them to the satisfaction of any unbiased tribunal in the land.

Very respectfully,

RO. C. TRIGG,
JAS. P. HAMMET,
JOHN N. LYLE, JR.,
A. A. PHLEGAR,
JAS. C. TAYLOR,
J. R. HAMMET,
N. B. HARVEY,
H. C. BARNETT,
JOHN C. BIRCHFIELD,
ROBERT A. G. LATIMER,
J. W. SHIELDS,
A. D. SHIELDS,
THOMAS J. HENDRY,
N. H. COCKE,
ROBERT A. MILLER,
HAM. W. SHIELDS,
JAMES T. MILLER,
ROBERT L. PRESTON,
WILLIAM G. GUERRANT,
GEORGE G. JUDKIN.

CERTIFICATE OF JAMES M. WADE, CLERK.

In Montgomery County Court, June term, 1858:

Adam H. Flanagan, who was, on the 27th day of May, 1858, by the qualified voters of this county, duly elected a surveyor for this county for the term of six years, commencing on the 1st day of July, 1858, appeared in court and took the oath of office, the oath of fidelity, the oath to support the Constitution of the United States, and the oath to suppress duelling, and with security entered into and acknowledged a bond conditioned for the faithful discharge of the duties of his office; which bond is ordered to be recorded.

A Copy—Teste.

JAMES M. WADE, Clerk.

CHRISTIANSBURG, VA., October 4th, 1867.

ADAM H. FLANAGAN :

SIR : Take notice that we, the undersigned citizens and voters of the county of Montgomery, on the 11th day of November, 1867, will submit a petition to Major-General Schofield, asking him to set aside the election held in this county on the 22d day of October last, for a delegate to the Convention, upon the grounds that you, being the delegate returned as elected, are ineligible and disqualified from taking a seat in said Convention, under the acts of Congress known as the "Reconstruction laws," by reason of having held office before the war, and as such officer took an oath in open court to support the Constitution of the United States, and afterwards gave aid and comfort voluntarily and in various ways to the rebellion.

Respectfully,

ROBERT C. TRIGG,
ARCHER A. PHLEGAR,
C. W. SULLIVAN,
J. W. SHIELDS,
C. A. CHIPLEY,
J. N. LYLE,
J. E. CRUSH.

I certify that on the 8th day of November, 1867, I served a true copy of the within notice on A. H. Flanagan.

HENRY C. BARNETT.

THE DEPOSITION OF ARCHER A. PHLEGAR, OF MONTGOMERY COUNTY.

I was in camp at Saltville, Va., for a week or ten days in September, 1863, as a member of a battalion from this county, composed entirely of men who were exempt from duty in the army, and who had organized themselves into companies for the purpose of resisting the raids of Federal troops into Southwestern Virginia. Saltville was then threatened by the Federal forces.

Mr. Adam Henderson Flanagan was in the camp at Saltville, and doing duty as a member of a company commanded by Captain James T. Miller. He not only performed the duties of a common soldier, but acted, *to my own knowledge*, as a drill-master for raw recruits.

Captain Miller's company was composed entirely of volunteers. I took an active part in organizing it, and now know of men who *positively* refused to join it, and who were never molested in the least for such refusal. I also know of some who enrolled their names in that company, yet who never went with it when it was called upon to resist a raid; and these men were never molested for remaining at home.

I have known Mr. Flanagan for a long time; knew him at school; knew him as a county surveyor of this county; know him now, and could not possibly have been mistaken as to his identity in the camp at Saltville.

ARCHER A. PHLEGAR.

State of Virginia—Montgomery County, to-wit:

Archer A. Phlegar personally appeared before me, a notary public for the

State and county aforesaid, and made oath that the facts above stated, to which his name is signed, are true.

C. B. GARDNER, N. P.

AFFIDAVIT OF L. A. BUCKINGHAM.

I hereby certify that in the year eighteen hundred and sixty-one, while the 54th Virginia (Confederate) regiment was in camp at or near Christiansburg, Va., Adam H. Flanagan was a beef contractor of and for the 54th Virginia regiment; that he boasted of his loyalty to the Confederate Government, &c., &c., and that subsequent to that time he made, or attempted to make, speeches in support of the secession movement, urging all parties to volunteer to protect the rights of Virginia and the South in the conflict then impending between the North and the South.

Given under my hand, November 7th, 1867.

LEWIS A. BUCKINGHAM.

Virginia—Pulaski County, to-wit:

Sworn to and subscribed before me, November 7th, 1867.

P. S. WOOLWINE, J. P.

THE DEPOSITION OF A. A. HOBSON.

I hereby certify that in October, 1861, myself, Mr. A. H. Flanagan and others, were competitors for the contract to supply the 54th Virginia regiment, Confederate States army, with beef. In the fall of 1861, while said regiment was stationed at Christiansburg, Va., and he (Mr. Flanagan,) being the lowest bidder, received the contract to supply fifty (50) head of cattle butchered and delivered at their camp. After Mr. Flanagan had delivered the fifty beeves above named, he and myself put in a bid for fifty (50) more, and after we got the contract, Mr. Flanagan insisted that I should allow him fifty cents a head more than I would receive, because he contended that it was through his influence that the contract was obtained. I further know that at the time there was no power exerted by any one to compel Mr. Flanagan, or any one else in this section of country, to furnish supplies for the army against their will.

A. A. HOBSON.

State of Virginia—Montgomery County, to-wit:

A. A. Hobson personally appeared before me, a Notary Public for the State and county aforesaid, and made oath that the above facts are true.

Given under my hand this 23d day of October, 1867.

C. B. GARDNER, N. P.

THE DEPOSITION OF DR. JAMES H. OTEY, OF MONTGOMERY COUNTY, VIRGINIA.

Sometime after Mr. A. H. Flanagan's return to this county, (after the close of the late war) I had a conversation with him relative to his desertion from this State during the war. Mr. Flanagan commenced the conversation himself. In that conversation he stated that he supposed the people were very much surprised at his going to the Yankees; that he had not deserted because he had any sympathy whatever with the Yankees, and that he was as good a Southern man as myself or any one else. He said he was denounced as a rebel by the

men he ran off with ; that he lived with a rebel while he was within the Union lines ; that he voted for McClellan, and that he would not have voted for Lincoln to have saved his life ; that the reason he left the South was because he thought the Confederate Congress had treated him badly, by receiving a substitute and afterwards attempting to put him in the army ; and had the Federal Government attempted to put him in the Union army, he would have left and gone to Canada.

Mr. Flanagan lives within three or four miles of me, and I never heard any one call in question his loyalty to the Confederate Government until after his desertion.

J. H. OTEY.

State of Virginia—Montgomery County, to-wit :

James H. Otey personally appeared before me, a notary public for the county and State aforesaid, and made oath that, the facts stated above, to which his name is signed, are true.

Given under my hand this 25th day of October, 1867.

C. B. GARDNER, N. P.

CERTIFICATE OF J. M. WADE, CLERK.

Virginia—Montgomery County, to-wit :

I, James M. Wade, clerk of the county court of said county, do hereby certify that upon an examination of the poll-books of this county, of the 23d day of May, 1861, (and filed in my office, to take the sense of the qualified voters of this Commonwealth upon the ratification of "An ordinance to repeal the ratification of the Constitution of the United States of America, by the State of Virginia, and to resume all the rights and powers granted under said Constitution," (adopted in convention at the City of Richmond on the 17th day of April, 1861), that Adam H. Flanagan voted for the said ordinance of secession.

Given under my hand this 26th day of October, 1867.

J. M. WADE, Clerk.

State of Virginia—Wythe County, s. s. :

On this 28th day of October, A. D. 1867, personally came C. A. Chipley, who being sworn upon his oath, says that, on the 30th day of April, 1867, he was appointed "registrar" for the county of Montgomery, State of Virginia, and a member of the Board of Registration for said county, in compliance with the act of Congress of March 2d, 1867, and the act supplementary thereto, providing for the reconstruction of the States lately in rebellion ; this deponent, as a member of the Board of Registration, in conjunction with the president of said board and the registering officer of the second magisterial district, convened said board for the purpose of registering voters at the precinct of Montgomery county, known as "Price's Fork," during the month of June, at which time and place Adam H. Flanagan presented himself for registration as a voter ; said Flanagan was registered as a voter, in compliance with General Orders No. 34, issued from Headquarters First Military District, dated June 3d, 1867 ; subsequent to the registration of said Flanagan, the Congress of the United States convened at the Capitol at Washington, and passed another supplementary reconstruction act, wherein it was decided who were executive and judicial officers ; said act also enacted that any person who held any State office previous to the

rebellion and afterwards engaged in said rebellion; or gave aid or comfort to the enemies of the United States; were disfranchised, whether they took the oath to support the Constitution of the United States or not: Upon the receipt of instructions from the Major-General Commanding; in pursuance of said supplementary act, to the Board of Registration, it was decided by the Major-General commanding that any person who held the office of county surveyor previous to the war, and afterwards engaged in the rebellion, or gave aid or comfort to the enemy, were disfranchised; said Flanagan called upon this deponent and the President of the Board of Registration and admitted that, under General Schofield's order; he was disfranchised, without he could be registered as a voter by virtue of the proclamation of President Lincoln; known as the amnesty proclamation: This deponent and the President of the Board of Registration informed said Flanagan that said amnesty proclamation did not restore him to the right of suffrage; said Flanagan was not satisfied with said decision, whereupon this deponent; by order of the President of the Board of Registration, wrote a letter of inquiry to the said Major-General Schofield; in said letter of inquiry the question was raised as to the eligibility of the said Flanagan to register under the aforesaid proclamation; said letter also set forth the rebellious acts of the said Flanagan, with his excuses for having committed them. After writing said letter this deponent was anxious to resign his position on the board of registration; but did not wish to do so until an answer was obtained from General Schofield in regard to the right of said Flanagan to register.— After waiting for about two weeks; this deponent resigned his commission as registrar, in order to attend to his duties as register in bankruptcy, and after said resignation had been accepted, the President of the Board of Registration received an answer to his letter of inquiry wherein it stated; "That the amnesty proclamation did not restore Flanagan to his right of suffrage, but if the acts committed by him were involuntary, he could be registered as a voter." Immediately after the perusal of said letter by this deponent; the question was asked the president of the board what action he proposed to take in said Flanagan's case; this deponent seeing that the said president of the board was disposed to register said Flanagan; contrary to paragraph 12, General Orders No. 28, dated May 13th, 1867, this deponent; therefore, handed Captain Schaeffer, the president of the board, a note of the following words, to-wit:

"Captain C. S. Schaeffer: If evidence is received to prove that Flanagan did his rebellious acts involuntary, I wish to prove, by loyal men who were loyal during the war, that what he did was voluntary."

Said Schaeffer did not notice said note; neither did he request this deponent to produce the evidence of Flanagan's disloyalty; and from what this deponent can learn, said Schaeffer informed the members of the board that it was ordered by General Schofield that said Flanagan be registered on his own affidavit of loyalty: Members of the board; one of whom was my successor as registrar of the county, informed this deponent that he never saw said letter; but voted to admit the said Flanagan to register on the statement made to him by the said Schaeffer; at the time the said Flanagan was registered; this deponent protested against it, because this deponent was prepared to prove the following facts in regard to the said Flanagan, to-wit: First, He was county surveyor previous to the war. Second. He went from place to place in the county of Montgomery and made speeches to encourage enlistments in the rebel army. Third. He volunteered in the rebel army and put in a substitute. Fourth. After he had put in a substitute, he being then exempt from military duty; he volunteered in the home

guard, and went on duty in the company of Captain James Miller, and while on picket duty captured a number of deserters from the Confederate army. Fifth. He was a contractor under the rebel authorities to furnish beef to the 54th Virginia regiment; and Sixth. He voted for the Ordinance of secession. These facts this deponent was prepared to prove, and so informed the president of the board of registration, and the only reason this deponent can give for the registration of said Flanagan was, that he belonged to an organization known as the Loyal League. This deponent further states, from his observation, that the said Captain C. S. Schaeffer has made an unjust discrimination between persons who belonged to the said Loyal League and those who did not, to-wit : by registering persons who were disfranchised under the law, and rejecting others who were not disfranchised; further this deponent sayeth not.

C. A. CHIPLEY.

Sworn and subscribed to before me this 28th day of October, A. D. 1867.

CHARLES A. HALLER, J. P.,

For Wythe County, Virginia.

Virginia—In the Clerks Office of the Circuit Court of Wythe County:

I, James Trucks, Clerk of said Circuit Court, do certify that Charles A. Haller, whose genuine signature appears to the within affidavit, is a Justice of the Peace of Wythe county, duly elected, commissioned and qualified according to law, and that full faith and credit is due and ought to be given to all his official acts as such; as well in Court as out.

In testimony whereof, I have hereto subscribed my name, and affixed the seal of said Court, at my office in Wytheville, the 28th day of October, 1867.

JAMES TRUCKS,

Clerk Wythe Circuit Court.

STATEMENT OF JOSEPH H. SOWDER.

I knew Adam H. Flanagan well at the commencement of the late war. About the last of March or the 1st of April, 1862, the militia of Montgomery county (of which I was a member) were called out to take the field against the armies of the United States in behalf of the Confederate States Government. A. H. Flanagan applied to Major William G. Guerrant, commanding, and was appointed quartermaster of the battalion. Whilst the militia were assembling at Christiansburg, the county seat, Mr. Flanagan was very active in reporting to headquarters, and bringing in men who had failed to report in obedience to orders. Whilst the battalion was encamped at Peterstown, in Monroe county, Mr. Flanagan, by diligent enquiry, learned that two men belonging to one of the companies, and living on Bradshaw's creek, in Montgomery county, had failed to report, and had deserted and gone to Craig county. He at once reported the facts to Major Guerrant, and had a guard sent to Craig and the men arrested. Whilst in this camp Mr. Flanagan, in securing, as quartermaster, forage for the command, sent teams fourteen miles from camp to take hay belonging to Union men, in preference to taking that of Southern men not a mile distant, saying "that he wanted to take the forage of men who were not loyal to the South." When arms were furnished the command at Christiansburg depot, Mr. Flanagan was one of the men who broke open the boxes and helped to distribute the muskets to the men. He handed me a musket, remark-

ing, "here, take it and kill as many of them (meaning Federal soldiers) as you can; now is the time to do it. During the march, and in camp, Mr. Flanagan was active and zealous in encouraging the men to endurance, and violent in abusing all who were disposed to lag behind or come short in their duty to the South. I regarded him at that time as one of the warmest, most zealous and ardent supporters of the Southern cause to be found in the State.

JOSEPH H. SOWDER.

Joseph H. Sowder, whose name is signed to the above, personally appeared before me, a Notary Public for the county of Montgomery, and affirmed that the above statement contained the truth, to the best of his knowledge and belief.

C. B. GARDNER, N. P.

THE DEPOSITION OF WILLIAM LUCAS, (COLORED).

I was at Central Depot, in Montgomery county, some time in the summer of 1861, and heard Mr. Adam Henderson Flanagan make a public speech to a crowd assembled there. Captain Radford was then trying to raise a company for the Southern army, and Mr. Flanagan was trying to persuade men to join that company and go to the war.

WILLIAM ^{his} ~~X~~ LUCAS.
mark.

Witness, ARCHER A. PHLEGAR.

State of Virginia, Montgomery County, to-wit:

Personally appeared before me, a Justice of the Peace for the county aforesaid, William Lucas, a colored man, and made oath that the facts stated above, to which his name is signed, are true.

Given under my hand this 24th day of October, 1867.

JAMES T. MILLER, J. P.

STATEMENT OF A. J. LUCAS.

In the year 1865, after Mr. A. H. Flanagan's return from the North (where he went during the war,) I was at his house, and in a conversation with him on that occasion, he remarked that the reason he went North was because the Confederate Congress had not treated store men, who put in substitutes, in good faith, and he determined from that fact to leave the country. After he got over there, (meaning Charlestown, Kanawha Valley,) he had many applications to point out the lines and boundaries of the lands of prominent persons in this county, as he had been county surveyor, which he refused to do, saying he never went away with the intention of injuring any man in the county. The people called him, over there, a Southern sympathizer; that he was a McClellan democrat and opposed to Lincoln's election.

This is the substance of the conversation, and I thought Mr. Flanagan, from the commencement of the war, up to the time he went through the Federal lines, as good a Southern man as myself.

A. J. LUCAS.

State of Virginia—Montgomery County, to-wit:

A. J. Lucas, a person of lawful age, and a resident of Montgomery county, Virginia, personally appeared before me, a Justice of the Peace for said county, and made oath that the facts above stated, to which his name is signed, are true.

Given under my hand this 26th of October, 1867.

JAMES T. MILLER, J. P.

THE DEPOSITION OF CHAS. A. PAGE, OF MONTGOMERY COUNTY,
VIRGINIA.

Sometime in the latter part of the year 1861, or the first of 1862, Adam Henderson Flanagan came to me and offered me (\$200) two hundred dollars for my position as *wagon master* of the 54th regiment Virginia infantry, Confederate States army. I was not forced to accept the place which I then occupied, nor do I know of any power which could have compelled Mr. Flanagan to take such a position. There had then been no men forced into the army from this county, nor was there then any talk of drafting or conscripting.

The 54th regiment was then composed wholly of volunteers.

C. A. PAGE.

State of Virginia, Montgomery County, to-wit:

Personally appeared before me, a Justice of the Peace for the county aforesaid, Charles A. Page, and made oath that the facts above stated, to which his name is signed, are true.

Given under my hand this 26th day of October, 1867.

JAMES T. MILLER, J. P.

COPY OF ADAM H. FLANAGAN'S OFFICIAL BOND.

Know all men by these presents, that we, Adam H. Flanagan, Thomas D. Childress, and William Cromer, are held and firmly bound unto the Commonwealth of Virginia, in the just sum of five thousand dollars, to be paid to the said Commonwealth, to which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated this 7th day of June, 1858.

The condition of the above obligation is such, that whereas the above bound Adam H. Flanagan was, on Thursday, the 27th day of May, 1858, by the qualified voters of Montgomery county, duly elected surveyor of said county for the term of six years, commencing on the first day of July, 1858. Now, if the said Adam H. Flanagan shall faithfully discharge the duties of said office, then the above obligation to be void, else to remain in full force.

ADAM H. FLANAGAN, [SEAL.]

THOMAS D. CHILDRESS, [SEAL.]

WILLIAM CROMER, [SEAL.]

At Montgomery June Court, 1858.

This bond was entered into and acknowledged in court, and ordered to be recorded.

Teste:

A copy—Teste:

R. D. MONTAGUE, C.

J. M. WADE, Clerk.

F

RESIGNATION OF JOHN B. EASTHAM, WITH REPLY OF GENERAL SCHOFIELD,

LOUISA COUNTY, VA., October 25th, 1867.

To Major-General J. M. SCHOFIELD:

DEAR SIR:

Circumstances having occurred which will render it impossible, for me to take my seat in the Convention, to which I have been elected a delegate, I hereby forward to you my resignation of the position, with the hope that you will do me the kindness to accept it, and cause another election to be held in this county, to fill the vacancy occasioned by my resignation.

I have the honor to be, sir,

Your most obedient servant,

JOHN B. EASTHAM.

HEADQUARTERS FIRST MILITARY DISTRICT,

STATE OF VIRGINIA,

Richmond, Va., November 1st, 1867.

MR. JOHN B. EASTHAM,

*Through President Board of Registration,**Louisa county, Louisa Court-House, Va.*

SIR: In reply to your communication of the 25th ultimo, tendering your resignation as delegate to the Convention, and requesting its acceptance, I am directed by the Commanding General to say, that he has not the power to accept the resignation, and would not be willing to do it if he had the power, Mr. Eastham having been a candidate with his own consent, and having been duly elected, his duty to his constituents, in the opinion of the Commanding General, requires him to serve in the Convention,

Very respectfully, your obedient servant,

Signed,

S. F. CHALFIN,

Assistant Adjutant-General.

RESIGNATION OF SAMUEL R. SEAY, WITH THE REPLY OF GENERAL SCHOFIELD.

AMELIA COUNTY, VA., November 16, 1867.

Colonel S. F. CHALFIN,

A. A. General First Military District, Richmond, Va.

COLONEL: I have the honor herewith to tender my resignation, as delegate elect to the approaching State Convention,

Very respectfully, your obedient servant,

SAMUEL R. SEAY.

PAINVILLE, AMELIA COUNTY, VA.,

November 23, 1867.

Colonel S. F. CHALFIN,

A. A. General First Military District Richmond Va.

DEAR COLONEL: Since sending you my resignation, as delegate elect to the Convention, I thought it might be proper to state my reasons. I was nominated as candidate but two or three days before the election, consequently did not canvass the county; what influences were brought to bear, at the different

precincts, by persons favorable to my election, I am unable to say. At my own precinct, where I was, I withdrew in the morning before the voting commenced, and communicated the fact to the three nearest precincts, the fourth being distant too far, consequently I did not receive but three votes at my precinct during the day, and would not allow them to vote for me during the day. The result shows that I was returned elected. I then concluded to accept the returns, with the public understanding that if those who voted for me did so under misapprehension, if they would signify it to me, I would resign.

Since then nearly four hundred have petitioned me to resign, and the petition is still being circulated. This is my reason for withdrawing. Hoping it may be satisfactory,

I am, Colonel, very respectfully, your obedient servant,

SAMUEL R. SEAY.

HEADQUARTERS FIRST MILITARY DISTRICT,

STATE OF VIRGINIA,

Richmond, Va., November 26, 1867

SIR—I am directed by the Commanding General to acknowledge the receipt of your communication of the 18th instant, tendering your resignation as delegate elect to the Convention from Amelia county, Va., and in reply thereto, to say that he does not consider that he has the authority to accept your resignation, but will refer it to the Convention for its action.

Very respectfully, your obedient servant,

Signed,

S. F. CHALFIN,

Assistant Adjutant-General.

OFFICIAL COPY:

J. A. CAMPBELL, 2d Lt. 5th Art'y, Brevet Lt. Col. U. S. A., A. A. A. G.

RESIGNATION OF R. S. BEASLEY, WITH THE REPLY OF GENERAL SCHOFIELD.

EDGEWOOD, GREENE COUNTY, November 18, 1867.

To Major-General J. M. SCHOFIELD, Commanding General First Military District, Va.:

SIR—In consequence of severe and protracted family affliction, I hereby tender you my resignation as member elect to the State Convention, from the 34th election District, composed of the counties of Madison and Greene.

Very respectfully,

R. S. BEAZLEY.

HEADQUARTERS FIRST MILITARY DISTRICT,

STATE OF VIRGINIA,

Richmond, Va., November 26, 1867.

Mr. R. S. Beazley, Edgewood, Va.:

SIR—I am directed by the Commanding General to acknowledge the receipt of your communication of the 18th instant, tendering your resignation as delegate elect to the Convention from the counties of Madison and Greene, Va., and in reply thereto, to say that he does not consider that he has the authority to accept your resignation, but that he will refer it to the Convention for its action.

Very respectfully, your obedient servant,

Signed,

S. F. CHALFIN,

Assistant Adjutant-General.

OFFICIAL COPY:

J. A. CAMPBELL, 2d Lt. 5th Art'y, Brevet Col. U. S. A., A. A. A. G.

G

MAJOR-GENERAL SCHOFIELD'S OPINION IN REFERENCE TO
ELIGIBILITY TO ELECTION AS DELEGATES TO THE CONVEN-
TION, PUBLISHED SEPTEMBER 24TH AND OCTOBER 16TH, 1867.

* * * * *

SEPTEMBER 24th, 1867.

“Delegates to the Convention cannot be required to take the oath referred to, (the oath prescribed by Congress for all officers of the United States.)

“Section 9, of the Act of July 19th, refers to *officers* elected under authority of the ‘so-called’ or ‘provisional’ State *governments*.

“This cannot be construed to include delegates to a State Convention, elected under authority of *the Congress of the United States*:

“No oath whatever has been prescribed by law for delegates to the State Convention, and there is no authority, but Congress, competent to prescribe such oath.

“The only restriction imposed upon the registered voters, in the selection of their delegates to the Convention, is that contained in the 5th section of the Act of March 2d, viz : ‘No person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States, shall be eligible to election, as a member of a Convention to frame a Constitution for any of said rebel States.’ ”

* * * * *

OCTOBER 16th, 1867.

“The construction given to the words ‘Executive and Judicial’ by section 6 of the act of Congress of July 19th, apply to those words, wherever used in the Acts of March 2d and 23d—that is, as well to the qualifications for office as to that for the elective franchise. Hence, a person who was clerk of a county court before the war, and as such clerk, took an oath to support the Constitution of the United States, and afterwards engaged in rebellion, is not eligible to election as delegate to the State Convention.

“The opinion of the Attorney-General of the United States, which was published by the War Department, on the 20th of June, 1867, wherein *county officers* are included among those subject to disfranchisement for participation in rebellion, as being ‘executive or judicial officers of a State,’ appears to coincide with the opinion above expressed.”

OFFICIAL :

J. A. CAMPBELL,

2d Lieut. 5th U. S. Artillery, Brvt. Col. U. S. A., A. A. A. G.

PETITION OF FREDERICK S. TUKEY,
CONTESTING THE SEAT OF
JAMES C. SOUTHALL.

RICHMOND, VA., December 3d, 1867.

To the President of the Constitutional Convention, now sitting in Richmond, Va.:

Your petitioner, Frederick S. Tukey, respectfully represents to your honorable body, that he was a competitor of Mr. James C. Southall, in the late election for delegates to this Convention for the district composed of Augusta, Albemarle and Louisa counties; and although Southall received the returns as delegate elect, yet your petitioner claims that he is legally elected and entitled to the seat for the following reasons: 1st. Your petitioner alleges that Southall is ineligible, for the reason that he is not a registered voter, he having during the time of registration declined to register, giving as his reasons that he could not conscientiously take the required oath, and that if he did take it, it would preclude him from making such criticisms upon the military bills, through the columns of his paper, as he might desire to. 2nd. Your petitioner alleges that the election in the sixth magisterial district of Augusta county was conducted in an illegal manner; the ballot-boxes having been opened after the balloting had commenced, the votes taken out and the name of your petitioner erased, another substituted and the ballots then returned to the boxes. 3rd. Your petitioner further alleges that there was also a gross violation of General Orders No. 68, paragraph 12, in the manner of conducting the election in the same district. This paragraph requires that the votes shall be counted immediately on the closing of the polls, and that the boxes shall then be sealed and returned to county headquarters. But, on the contrary, they were not counted until the following day, and were carried to the house of one of the commissioners unsealed, kept over night, and then returned to headquarters still unsealed. 4th. Your petitioner claims that the votes received by T. W. Savage, of Albemarle county, should be transferred to him, for the reason that he (Savage) erased the name of your petitioner from the ballots and substituted his own, he being a commissioner of election at the time, and consequently ineligible, which proves conclusively that he was conducting the election in his own interest, after having taken the oath of office, and sworn to conduct it in a fair and impartial manner. 5th. Your petitioner further claims that the votes received by Southall, at Porter's precinct, in Albemarle county should be rejected, for the reason that the registering officer who was superintending the election, conducted it in the interests of Southall, after he had taken the oath of office, which required him to conduct the election in a fair and impartial manner, and boasted of having done so after the election was over, saying that

he fooled all the negroes by making them believe that the Republican candidates were Democrats, and, if elected, would vote to re-enslave them again.

Finally, your petitioner feels in duty bound, to pray that your honorable body give the above allegations a close investigation, in order that the purity of the ballot-box, which is so important to us all at this time, may be vindicated.

All of which is respectfully submitted,

FREDERICK S. TUKEY.

COMMUNICATION
FROM
GENERAL J. M. SCHOFIELD,
TENDERING THANKS.

HEADQUARTERS FIRST MILITARY DISTRICT,
STATE OF VIRGINIA, Richmond, Va., Dec. 6, 1867.

Hon. John C. Underwood, President of Virginia State Convention :

SIR : I have the honor to acknowledge the receipt of an official copy of a resolution, this day adopted by the State Convention, extending the privileges of the floor of the house to myself and staff, and to tender the Convention my thanks for the compliment.

Very respectfully, your obedient servant,

J. M. SCHOFIELD,
Major-General.

REPORT

OF THE

COMMITTEE ON PRINTING.

The committee appointed to enquire and ascertain what would be reasonable terms upon which to contract for the printing needed by the Convention, beg leave to report that they proceeded to discharge this duty, by seeking information on the subject from all the persons in this city, who are now engaged in conducting job printing establishments.

The committee obtained the evidence of the proprietors of five of the largest printing establishments in Richmond, who concurred in representing the following, as a fair and reasonable schedule of prices, for such printing as will be required by the Convention, viz :

FOR PRINTING OF JOURNAL.

For composition, per 1,000 ems, seventy cents.

For press-work, per token, octavo form, sixty cents.

FOR PRINTING ORDINANCES AND RESOLUTIONS.

For composition, per 1,000 ems, forty-five cents.

For press-work, per token, fifty cents.

FOR PRINTING DOCUMENTS.

For composition, per 1,000 ems, forty-five cents.

For press-work, per token, fifty cents.

The committee now report, that they deem the evidence obtained satisfactory to show the above schedule to be a fair and reasonable one, to be adopted as a basis for contracting for the work necessary for the Convention.

They further recommend, that an arrangement be made with the Superintendent of Public Printing for the State of Virginia, by which that officer shall procure and provide the supply of paper necessary to be used in executing the printing for this body.

And they recommend that the Convention appoint a committee of three of its members, to be charged with the duty of examining the printing done for the body, and of auditing the bills preferred for the same.

Respectfully submitted,

DECEMBER 9, 1867.

JOHN L. MARYE, JR.

COMMUNICATION

FROM

GENERAL J. M. SCHOFIELD,

RELATIVE TO THE

REGISTERED VOTERS IN THE STATE.

HEADQUARTERS FIRST MILITARY DISTRICT,
STATE OF VIRGINIA, Richmond, Va., Dec. 12th, 1867.

To the President of the Virginia State Convention :

Sir :—In compliance with the resolution of the Convention, adopted December 10th, 1867, I have the honor to transmit herewith, by direction of Major-General Schofield, a statement, showing the number of voters registered in the several counties and cities of this State, under the reconstruction acts of Congress ; and, also, a statement showing the official results of the election held under said acts.

Very respectfully,

Your obedient servant,

J. A. CAMPBELL,

Brevet Lieutenant-Colonel and Acting Assistant Adjutant-General.

CONSOLIDATED LIST

Of Persons Registered as Voters in the State of Virginia.

No.	COUNTIES, &c.	NUMBER REGISTERED.		
		White.	Colored.	Total.
1	Richmond city.....	5,382	6,284	11,666
2	Norfolk county and city of Portsmouth.....	2,738	3,281	6,019
3	Albemarle.....	2,310	2,759	5,069
4	Augusta.....	3,579	1,362	4,941
5	Bedford.....	2,408	2,110	4,518
6	Campbell.....	2,576	2,978	5,554
7	Halifax.....	1,980	3,402	5,382
8	Loudoun.....	2,799	1,007	3,806
9	Mecklenburg.....	1,275	2,843	4,118
10	Pittsylvania.....	2,768	3,534	6,302
11	Rockingham.....	2,881	431	3,312
12	Norfolk city.....	1,910	2,049	3,959
13	Petersburg city.....	1,546	2,647	4,193
14	Alexandria.....	1,491	1,933	3,524
15	Amelia.....	494	1,492	1,986
16	Amherst.....	1,515	1,371	2,886
17	Botetourt.....	1,420	662	2,082
18	Brunswick.....	775	1,733	2,508
19	Buckingham.....	1,072	1,799	2,871
20	Charlotte.....	913	2,080	2,993
21	Culpeper.....	1,005	896	1,901
22	Cumberland.....	535	1,331	1,866
23	Fairfax.....	1,400	1,039	2,439
24	Fluvanna.....	884	970	1,854
25	Frederick.....	2,093	540	2,633
26	Goochland.....	662	1,519	2,181
27	Hanover.....	1,504	1,556	3,060
28	Henrico.....	1,229	1,879	3,108
29	Henry.....	1,017	1,006	2,023
30	Louisa.....	1,122	1,761	2,883
31	Lunenburg.....	726	1,219	1,945
32	Montgomery.....	1,546	567	2,113
33	Nansemond.....	1,084	1,154	2,238
34	Nelson.....	1,243	1,268	2,511
35	Nottoway.....	481	1,448	1,929
36	Orange.....	899	1,081	1,980
37	Princess Anne.....	870	931	1,801
38	Southampton.....	1,124	1,273	2,397
39	Wythe.....	1,581	480	2,061
40	Chesterfield.....	1,871	2,018	3,889
41	Powhatan.....	451	1,173	1,624
42	Caroline.....	1,317	1,402	2,719
43	King George.....	456	439	895
44	Spotsylvania.....	1,310	1,026	2,336
45	Accomac.....	2,058	1,470	3,528
46	Northampton.....	556	1,004	1,560
47	Bath.....	418	111	529
48	Highland.....	602	58	660
49	Rockbridge.....	2,171	1,051	3,222
50	Carroll.....	1,410	65	1,475
51	Floyd.....	1,360	189	1,549
52	Grayson.....	1,289	128	1,417

No.	COUNTIES, &c.	NUMBER REGISTERED.		
		White.	Colored.	Total.
53	Fauquier.....	1,889	1,299	3,188
54	Rappahannock.....	1,007	479	1,486
55	Northumberland.....	648	451	1,099
56	Lancaster.....	362	487	849
57	Richmond.....	591	489	1,080
58	Westmoreland.....	625	663	1,288
59	Patrick.....	1,197	326	1,523
60	Franklin.....	2,109	1,091	3,200
61	Prince Edward.....	709	1,659	2,428
62	Appomattox.....	759	903	1,662
63	Prince George.....	535	1,095	1,630
64	Dinwiddie.....	705	1,606	2,311
65	Lee.....	1,487	120	1,607
66	Scott.....	1,884	110	1,994
67	Wise.....	654	9	663
68	Page.....	1,248	190	1,438
69	Shenandoah.....	2,168	176	2,344
70	Smyth.....	1,283	319	1,602
71	Washington.....	2,479	637	3,116
72	Alleghany.....	484	93	577
73	Craig.....	448	47	495
74	Roanoke.....	1,030	650	1,680
75	Charles City.....	309	658	967
76	New Kent.....	370	454	824
77	Clarke.....	763	378	1,141
78	Warren.....	656	197	853
79	Elizabeth City.....	361	1,585	1,946
80	Warwick.....	135	291	426
81	Gloucester.....	860	869	1,729
82	Mathews.....	651	334	985
83	Isle of Wight.....	871	656	1,527
84	Surry.....	447	582	1,029
85	King & Queen.....	710	883	1,593
86	King William.....	488	713	1,201
87	Madison.....	808	599	1,407
88	Greene.....	556	263	819
89	Middlesex.....	388	409	797
90	Essex.....	576	1,124	1,700
91	Pulaski.....	693	366	1,059
92	Giles.....	829	139	968
93	Russell.....	1,415	224	1,639
94	Buchanan.....	463	5	468
95	Stafford.....	847	253	1,100
96	Prince William.....	958	307	1,265
97	Greensville.....	303	720	1,023
98	Sussex.....	535	1,104	1,639
99	Bland.....	687	56	743
100	Tazewell.....	1,309	275	1,584
101	James City.....	226	492	718
102	York.....	425	1,188	1,613
		120,101	105,832	225,933

HEADQ'RS FIRST MILITARY DISTRICT, STATE OF VIRGINIA,
Richmond, Va., December 12, 1867.

I certify on honor, that the foregoing is a correct transcript from the returns furnished by the registering officers of the number of persons registered as voters in the State of Virginia under the reconstruction acts of Congress.

J. A. CAMPBELL,

2d Lieut. 5th U. S. Art'y, Brevet Lieut. Col. U. S. A., A. A. A. G.

CONSOLIDATED VOTE

Of the State of Virginia at the Election held October 22, 1867.

No.	ELECTION DISTRICTS.	NUMBER OF VOTES CAST.			FOR A CONVENTION.			AGAINST A CONVENTION.		
		White.	Colored.	Total.	White.	Colored.	Total.	White.	Colored.	Total.
1	Richmond city.....	4,857	5,195	10,052	145	5,184	5,329	4,712	11	4,723
1	Norfolk and Portsmouth.....	1,399	2,913	4,312	309	2,912	3,221	1,090	1	1,091
1	Albemarle.....	1,596	2,382	3,978	97	2,353	2,450	1,499	29	1,528
2	Augusta.....	1,879	1,033	2,912	233	1,024	1,257	1,646	9	1,655
3	Bedford.....	1,676	1,900	3,576	120	1,878	1,998	1,556	22	1,578
4	Campbell.....	2,044	2,611	4,655	38	2,587	2,625	2,006	24	2,030
5	Halifax.....	1,159	2,759	3,918	577	2,748	3,325	582	11	593
6	Loudoun.....	2,120	912	3,032	584	899	1,483	1,536	13	1,549
7	Mecklenburg.....	876	2,633	3,509	92	2,623	2,715	784	10	794
8	Pittsylvania.....	1,368	2,782	4,150	314	2,740	3,054	1,054	42	1,096
9	Rockingham.....	1,343	314	1,657	261	304	565	1,082	10	1,092
10	Norfolk city.....	1,576	1,823	3,399	446	1,821	2,267	1,130	2	1,132
11	Petersburg city.....	1,236	2,428	3,664	59	2,423	2,482	1,177	5	1,182
1	Alexandria.....	1,031	1,584	2,615	193	1,576	1,769	838	8	846
2	Amelia.....	328	1,440	1,768	22	1,359	1,381	306	81	387
3	Amherst.....	1,144	1,223	2,367	160	1,208	1,368	984	15	999
4	Botetourt.....	868	581	1,449	133	577	710	735	4	739
5	Brunswick.....	501	1,648	2,149	55	1,646	1,701	446	2	448

Consolidated Vote of the State of Virginia, &c—Continued.

No.	ELECTION DISTRICTS.	NUMBER OF VOTES CAST.			FOR A CONVENTION.			AGAINST A CONVENTION.		
		White.	Colored.	Total.	White.	Colored.	Total.	White.	Colored.	Total.
6	Buckingham.....	767	1,569	2,336	58	1,557	1,615	709	12	721
7	Charlotte.....	629	1,898	2,527	74	1,878	1,952	555	20	575
8	Culpeper.....	866	826	1,692	17	809	826	849	17	866
9	Cumberland.....	371	1,236	1,607	26	1,235	1,261	345	1	346
10	Fairfax.....	1,023	921	1,944	245	909	1,154	778	12	790
11	Fluvanna.....	750	876	1,626	64	857	921	686	19	705
12	Frederick.....	1,432	482	1,914	431	477	908	1,001	5	1,006
13	Goochland.....	372	1,359	1,731	8	1,358	1,366	364	1	365
14	Hanover.....	1,066	1,455	2,521	63	1,453	1,516	1,003	2	1,005
15	Henrico.....	722	1,607	2,329	53	1,606	1,659	669	1	670
16	Henry.....	494	905	1,399	368	902	1,270	126	3	129
17	Louisa.....	630	1,596	2,226	88	1,593	1,681	542	3	545
18	Lunenburg.....	480	1,131	1,611	46	1,124	1,170	434	7	441
19	Montgomery.....	1,011	506	1,517	624	506	1,130	387		387
20	Nansemond.....	719	1,056	1,775	20	1,056	1,076	699		699
21	Nelson.....	801	1,117	1,918	48	1,100	1,148	753	17	770
22	Nottoway.....	204	1,334	1,538	43	1,302	1,345	161	32	193
23	Orange.....	694	986	1,680	45	984	1,029	649	2	651
24	Princess Anne.....	645	843	1,488	84	843	927	561		561
25	Southampton.....	632	1,242	1,874	20	1,242	1,262	612		612
26	Wythe.....	1,154	409	1,563	585	406	991	569	3	572
1 }	Chesterfield.....	1,119	1,972	3,091	37	1,972	2,009	1,082		1,082
	Powhatan.....	378	1,128	1,506	20	1,118	1,138	298	10	308
	Caroline.....	1,173	1,261	2,434	7	1,241	1,248	1,166	20	1,186
	King George.....	360	396	756	9	393	402	351	3	354
2 }	Spotsylvania.....	1,125	892	2,017	40	882	922	1,085	10	1,095
	Accomac.....	1,362	1,186	2,548	35	1,183	1,218	1,327	3	1,330
1 }	Northampton.....	377	874	1,251	5	873	878	372	1	373

178	1	46	38	8	224	39	185	Bath.....
218	4	69	21	48	287	25	262	Highland.....
891	5	1,077	932	145	1,968	937	1,031	Rockbridge.....
165	2	733	41	692	898	43	855	Carroll.....
95	.....	772	159	613	869	159	708	Floyd.....
170	.....	553	106	447	723	106	617	Grayson.....
1,318	13	1,188	1,128	60	2,506	1,141	1,365	Grayson.....
566	2	512	443	69	1,078	445	633	Fauquier.....
363	.....	363	434	84	881	447	447	Rappahannock.....
256	.....	478	472	6	734	472	262	Northumberland.....
273	.....	566	475	91	839	475	364	Lancaster.....
363	3	360	596	27	986	599	387	Richmond.....
46	.....	823	249	574	869	249	620	Westmoreland.....
502	11	1,307	900	497	1,899	911	988	Patrick.....
471	3	1,581	1,518	63	2,052	1,521	531	Franklin.....
456	3	872	839	33	1,328	842	496	Prince Edward.....
109	1	992	946	46	1,101	947	154	Appomattox.....
327	1	1,525	1,483	42	1,852	1,484	368	Prince George.....
491	.....	358	307	51	849	51	798	Dinwiddie.....
347	1	843	76	767	1,190	77	1,113	Lee.....
234	.....	156	4	152	390	4	386	Scott.....
235	3	306	121	185	541	124	417	Wise.....
965	1	406	155	251	1,371	156	1,215	Page.....
708	8	388	228	160	1,098	236	860	Shenandoah.....
1,147	5	952	498	454	2,099	503	1,596	Smyth.....
168	5	105	53	52	273	58	215	Washington.....
187	6	58	14	44	245	20	225	Alleghany.....
429	2	690	571	119	1,119	573	546	Craig.....
83	.....	678	585	93	761	585	176	Roanoke.....
160	1	428	405	23	588	406	182	Charles City.....
517	3	339	340	19	876	343	533	New Kent.....
409	3	203	172	31	612	175	437	Clarke.....
39	.....	1,482	1,427	55	1,521	1,427	94	Warren.....
15	.....	260	258	2	275	258	17	Elizabeth City.....
573	4	761	756	5	1,234	760	574	Warwick.....
289	.....	379	298	81	668	298	370	Gloucester.....
403	2	916	613	303	1,319	615	704	Mathews.....
264	1	611	510	101	875	511	364	Isle of Wight.....
								Surry.....

Consolidated Vote of the State of Virginia, &c.—Concluded.

No.	ELECTION DISTRICTS.	NUMBER OF VOTES CAST.			FOR A CONVENTION.		AGAINST A CONVENTION.		
		White.	Colored.	Total.	White.	Colored.	White.	Colored.	Total.
7 }	King & Queen.....	414	830	1,244	39	826	375	4	379
7 }	King William.....	308	663	971	11	662	297	1	298
8 }	Madison.....	612	557	1,169	55	556	557	1	558
8 }	Greene.....	390	227	617	10	220	380	7	387
9 }	Middlesex.....	243	376	619	6	376	237	.....	237
9 }	Essex.....	418	1,029	1,447	24	1,026	394	3	397
10 }	Pulaski.....	325	296	621	39	295	286	1	287
10 }	Giles.....	269	11	280	12	9	257	2	259
11 }	Russell.....	613	161	774	369	160	244	1	245
11 }	Buchanan.....	124	.....	124	69	.....	55	.....	55
12 }	Stafford.....	654	202	856	38	196	616	6	622
12 }	Prince William.....	598	250	848	107	244	491	6	497
12 }	Greensville.....	214	673	887	22	672	192	1	193
12 }	Sussex.....	322	1,026	1,348	32	1,026	290	.....	290
12 }	Bland.....	355	39	394	128	39	227	.....	227
12 }	Tazewell.....	591	169	760	90	165	501	4	505
12 }	James City.....	117	416	533	14	412	103	4	107
12 }	York.....	135	987	1,122	20	987	115	.....	115
	Total.....	76,084	93,145	169,229	14,835	92,507	61,249	638	61,887

HEADQUARTERS FIRST MILITARY DISTRICT, STATE OF VIRGINIA,
Richmond, Va., Dec. 12, 1867.

I certify on honor, that the foregoing is a correct transcript from the certificates furnished by the officers conducting the election, of the vote cast in the several counties and cities of the State of Virginia at the election held on the 22d of October, 1867.

J. A. CAMPBELL,
2d Lieut. 5th U. S. Art'y, Brevet Lieut. Col. U. S. A., A. A. G.

REPLY
OF
MR. JAMES C. SOUTHALL,
IN REFERENCE TO A
PETITION CONTESTING HIS SEAT,
WITH ACCOMPANYING LETTERS.

To the Members of the State Convention :

I beg leave to make the following statements, and to present the following considerations, in reply to the petition of Mr. Frederick S. Tukey contesting my seat in this body.

I must premise that I think I have reason to ask that Mr. Tukey's petition shall be dismissed at the outset, on the ground that he has neglected and refused to give me the usual notice and specifications required in such cases. There is no actual law of contested elections applying to members of a State convention for the simple reason that all conventions are exceptional occurrences in the government of a State, but the regulations provided to apply in the case of contested elections in the Legislature are to be presumed to be fair and just as a rule to govern such contests on the occasion of a State convention.

The existing statutes of Virginia are the law of the State, except in so far as modified by the military law, and it will be, of course, the policy of the Convention to depart only in necessary cases from the practices and traditions of the people of Virginia, or from the principles governing all parliamentary bodies.

I am happy to know that my competitor concurs in the opinion that the existing law of Virginia should govern in this case, and that we are, therefore, agreed as to the basis for disposing of this preliminary question. In Mr. Tukey's letter of November 4th, 1867, addressed to General Schofield, and printed by order of the Convention, he refers to chapter 10 of the Code of Virginia, and the law controlling a contested election of a senator or member of the House of Delegates, and remarks that he "presumes this law holds good with reference to delegates to a constitutional convention."

It only becomes necessary, therefore, to ascertain what is the law of Virginia on this subject, as laid down in the said tenth chapter of the Code. By reference to section one of this chapter, it will be seen that it is required that "any

person intending to contest the seat of a senator or delegate to the General Assembly, shall, within twenty-five days after the day on which the election commenced, give to the other notice thereof in writing, *and a list of the votes he will dispute, with his objections to each*, and of the votes improperly rejected, for which he will contend. If he object to the legality of the election, or *the eligibility of the person elected, the notice shall set forth his objections,*" &c.

Mr. Tukey did not notify me of his purpose to contest my seat until the 22d day of November, more than twenty-five days after the election; and he not only omitted to give me a list of the votes he disputes, and his objections to each, and also to specify the grounds of his assertion that I am ineligible, but when I wrote to him, politely asking for more particular information, he positively declined to state how or why I was ineligible, or to state what irregularity had been committed in the sixth magisterial district of Augusta, or to specify anything with reference to Porter's precinct in Albemarle, except that "improper influence" had been exerted. One of the chief points made in his petition he did not mention at all.

The Convention had been in session almost a week before I saw a copy of his petition, and that I was shown in one of the newspapers of the city. His protest, or protests, filed with General Schofield, and the letters of Captain Jackson, Registering Officer of Augusta county, both containing averments pertinent to the subject not mentioned in his petition, I have only been able to get sight of this seventeenth day of December.

The whole letter and spirit of the election law is violated by entertaining an application made in such a manner.

I could not prepare my case, because I did not know the quarter from which, or the missile with which, I would be assailed. How could I protect myself against the charge about the sixth magisterial district in Augusta, when Mr. Tukey declined to inform me what was the matter? How could I prepare evidence, or arguments, with regard to Porter's precinct, in Albemarle, when I was only allowed to know that there was some "improper influence" exerted there, but was designedly kept in the dark as to what it was? How could I investigate the question of my eligibility, when the grounds on which it was to be assailed were cunningly shut up in the breast of my accuser?

The original letter of Mr. Tukey to me, notifying me that he would contest my seat, a copy of my reply to the same requesting more specific information, and his response to that refusing such specific information, are herewith filed, marked A, B, and C, and, as will be seen, substantiate the statements I have made on the subject.

I respectfully ask the Convention, therefore, to dismiss this petition at the threshold, on the ground that the law of contested elections, to which my adversary appeals, has been not only violated, but grossly violated, and that this contest has been sprung upon me contrary to the provisions of said law designed to secure a full and fair notice to the sitting member. That law is positive, and is presumed to be wise; my competitor and myself have both appealed to it. It is decisive of this proceeding.

If the Convention is not persuaded, however, with me, that enough has been said to dispose of the case, I proceed to remark that even if I (as Mr. Tukey alleges) am ineligible to the Convention, the consequence would be very different from what Mr. Tukey seems to anticipate. In that case Mr. Tukey would

not get the seat ; but there would be a new election, and there is thirteen hundred conservative majority in the district.

If A should receive one hundred votes in a county election, and B should receive twelve hundred, and the fact should be developed after the election that B was a minor, and therefore ineligible, in such a case A would not step into the seat, but there would be another election ordered. It would be against all ideas of propriety to force A on a constituency in which there was a majority of eleven hundred against him, in a vote of thirteen hundred. The people doubtless thought, and are presumed to have thought, B eligible, and they are not to be punished for an innocent ignorance of the fact.

In 1831 John Minor Botts and John G. Williams were candidates to represent the county of Henrico in the House of Delegates of Virginia. Mr. Williams having received a majority of the votes cast was returned as elected, and took his seat in the House of Delegates. Mr. Botts presented a memorial to the House contesting Mr. Williams's seat on the ground that Mr. Williams was ineligible for the reason that he was not a citizen of Henrico, but a resident of the city of Richmond. Mr. Williams admitted that he was a resident of Richmond city. The Committee of Elections reported that Mr. Williams was ineligible, and the House passed the resolution reported to that effect. Thereupon the House ordered that a writ of election issue to the sheriff of Henrico "to supply the vacancy just occasioned by the decision just made by the House." And a new election was held, and Mr. Robert A. Mayo was elected to the seat. This case is conclusive. See *Journal of House of Delegates for 1831-'32*, p. 42-'3, and p. 256.

But again : from information received by me, I charge that Mr. Tukey himself is ineligible, and that so far from stepping into my shoes, if I am unseated, he cannot even become a candidate for the Convention. I learn that Mr. Tukey was a registering officer in the town of Staunton, in the county of Augusta, from the beginning of the registration, and that he continued to act in this capacity until the work was finished. A few days before the election he offered to resign, but I am informed at General Schofield's headquarters that his resignation was never accepted. Whether accepted or not, it was not even tendered until the registration had been accomplished. I contend that this fact of Mr. Tukey's having acted as a registration officer disables him from being a member of this Convention. As a registering officer, he had it in his power (I do not charge that he actually did abuse that power) to control materially the vote of the magisterial district in which he acted. He could wield a large influence in admitting to the registry whomsoever he pleased, and he had a potential voice in excluding his opponents. It would be monstrous, that, under such circumstances, after the registration was complete, he should be permitted to become a candidate for the very suffrages which he himself had adjudged to be the only ones to be admitted on the registration books.

Such a proceeding would shock the moral sense of the entire community, and of this Convention. It would be as if, at a shooting match, a man should be allowed to load the weapons of his competitors. It would be as if the man who holds the box in a faro-bank were allowed to bet on the cards. It would be as if a commissioner in chancery should, after making up his report, take a fee in the case and appear as an advocate. It would be like a sporting man claiming that his trainer should go into the stables and groom all the horses that were entered against him.

Therefore, on abstract grounds, the registrars of the State, under the late acts of Congress, must be precluded from offering for the Convention to which that registration looked. Permitted to become candidates, the election would be no longer a free one. We might have a body composed of Federal officers who had controlled every district in the State.

As for the resignation of Mr. Tukey, that is like the fowler getting over the hedge after he has spread his net.

But the matter is not left to *a priori* reasoning. With his usual sagacity General Schofield has anticipated and provided for the very case in question. By General Orders No. 68, dated October 4, 1867, section 6, he has laid down positively the law on the subject. This is the language of that order: "No candidate for election as delegate to the Convention, shall officiate as registering officer or assistant at the election."

The two capacities are incompatible with each other. Persons were required to elect. If they wanted to be candidates for the Convention, they could not act as registration officers. If they wanted to conduct the registration, they could not be candidates.

Thus I have proved, as I think, 1. That, cutting up this whole proceeding by the roots, Mr. Tukey's petition ought not to be entertained. 2. That, if entertained, and I should be adjudged disqualified to hold my seat, a new election would have to be ordered. 3. That Mr. Tukey, in any phase the matter may assume, is out of the question, he being *ineligible* to the Convention, in consequence of having been a registration officer.

I proceed now to notice the points made in Mr. Tukey's petition against me, and against my right to hold my seat. I cannot forbear to say that, in my opinion, they are frivolous and groundless in the extreme; but, of this, the Convention must judge when it shall have read this paper.

The first point presented is this; That "I am ineligible for the reason that I am not a registered voter," and, it is added, "that I declined to register, because I could not conscientiously take the required oath, and because (as I am said to have affirmed) it would preclude me from making such criticisms on the military bills, through the columns of my paper, as I might desire to."

It is true I did not register, but it is not true that I said that I could not conscientiously take the registration oath, nor did I refrain from taking that oath for the reason that it would preclude me from criticising the military bills.

I could have registered if I had desired to. I had never held any office whatever, State or Federal, nor been a member of Congress, or of any State Legislature, and there was nothing, therefore, to prevent my registering.

Under the old Constitution and laws of Virginia, I was eligible to a State Convention. The present Convention was, however, ordered by the Congress of the United States. Whether I am eligible to it, must be determined by the act of Congress calling the Convention. We must look to the Reconstruction Acts to ascertain who may vote, and who may be elected, to the State Conventions called by them.

There is only one clause in the Reconstruction Acts referring to the subject of eligibility to State Conventions. It is in the fifth section of the original bill passed March 2, 1867. It is as follows: "*Provided that no person excluded from the*

privilege of holding office, by said amendment to the Constitution of the United States, shall be eligible to election as a member of the Convention to frame a Constitution for any of said rebel States."

If this clause reaches me, I am ineligible; if it does not reach me (and no order of General Schofield reaches me) I am eligible. If I come within the disabling clause of the third section of the Constitutional Amendment, that is, if I ever held any Federal or State office and afterwards engaged in the rebellion, I am prohibited from being elected to the State Convention. As I have stated, I never held any office whatever previous to coming to this Convention, and it is obvious, therefore, that I am as eligible as any man on this floor. The fact of my not having registered and voted has no pertinence to the subject of my eligibility; it is precisely parallel to the case of a candidate for the Legislature who refrains from voting in the election. Indeed, under our old freehold suffrage a man who was not a freeholder, and therefore no voter, was eligible to office. He *could not* vote, yet he was eligible to office. I *could* have registered and voted; much more am I eligible—apart from the consideration already urged, namely this, that the Reconstruction Acts expressly define who are ineligible, and, therefore, leave all not so excluded in the category of the eligible.

Why I did not register and vote is a question with which the Convention has nothing whatever to do; it was not because I entertained more extreme views than my neighbors. Many reasons may be imagined which might prevent a person, qualified to register and vote, from registering and voting—he may be eccentric and acting under some resolve never to vote; he may have been sick, and unable to get to the registering office; he may have been out of the country when the registration took place; he may have lived in some obscure spot and never heard of the registration.

There is the highest authority for the correctness of the preceding views. Reference is made to Document No. I, p. 39, printed by the Convention: There we have "Major-General Schofield's Opinion in reference to Eligibility to election as delegates to the Convention." I find this extract on the page mentioned from a letter or order of General Schofield, dated September 24, 1867:

"The only restriction imposed upon the registered voters, in the selection of their delegates to the Convention, is that contained in the 5th section of the Act of March 2d, viz: 'No person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States, shall be eligible to election as a member of a Convention to frame a Constitution for any of said rebel States.'"

The second point made by Mr. Tukey is, that the election in the sixth magisterial district of Augusta was conducted in an illegal manner. He states that the ballot-boxes were opened after the balloting commenced, the votes taken out and his name erased, &c. By reference to Mr. Tukey's letter to me, dated November 21st, notifying me that he intended to contest my seat, it will be seen that *this point is not alluded to*. By reference to his second letter to me, dated November 25th, in which he specifies two other grounds of complaint, *this point is still not alluded to*. I never heard of it until I had been in Richmond a week, and saw it in Mr. Tukey's petition to the Convention, printed in the *New Nation* newspaper.

I deny the statement (if it is to be entertained at this late hour), and call for the proof. I have heard that *one* ballot was allowed by the election officers to

be taken from the ballot-box, and the party permitted to correct his vote. Beyond this I am informed that there is not one word of truth in the charge. How could there be if, as is affirmed by Captain Jackson, the registering officer and three commissioners conducting the poll are "men of high standing and well known integrity?"

It is proper to explain to the Convention that the Radical vote in the sixth magisterial district of Augusta was cast for William F. Gordon, Esq., who was also a candidate against Mr. Tukey and myself. How Mr. Gordon got this vote at the New Hope precinct, Mr. Tukey can perhaps say better than I can.

I repeat again, that I deny the statement that the ballots (save possibly one) were taken from the box and changed. It is a matter of evidence, which will be produced to maintain my denial. I am curious to know how Mr. Tukey will maintain his averment. At the same time, I remark that if it be true that as many as half a dozen ballots were removed from the ballot-box, it will only have the effect of giving to Mr. Tukey those few votes which may have been tampered with.

Mr. Tukey also complains that in this same district there was some violation of the literal terms of section 12 of General Orders No. 68, in this, to-wit: that the votes were not counted on the spot at the close of the polls, and the ballot-box then and there sealed as directed in the orders, but that the counting of the ballots was postponed until the following morning, and the ballot-box not sealed at all. This is also a matter of proof; witnesses will be examined as to the allegations made. But I remark that, admitting the fact to be as stated, it does not vitiate the poll. The details of General Schofield's order, quoted, are merely intended for the governance of the conductors of the election, and are merely precautionary. They are what the lawyers call "directory;" the officer may subject himself to punishment for neglecting them; but if there is reason to believe that no injustice has been done, and that the returns are all correct, these returns are not affected one way or the other. The question is, Have we correct returns of the vote of this magisterial district? If we have, it makes no difference whether the ballots were counted at sunset or at sunrise. Suppose the commissioners of election, instead of depositing the ballots in a box as ordered, had deposited them in a *bag*, they would have violated orders, but the votes would have been good.

By General Orders No. 77, from military headquarters, dated November 2d, this Convention was ordered to assemble in the Capitol at 12 o'clock, on the 3d day of December. Suppose that we have completed and promulgated our Constitution, and it shall appear that the Convention did not actually assemble until half-past one o'clock on the third of December, would the Constitution be an illegal instrument? It was our duty to obey the order and be here at twelve o'clock, but our disobedience would not vitiate the proceedings of the Convention.

In 1857 there was an election for judge in the seventeenth judicial circuit of Virginia. The candidates were Mr. Fulkerson and Mr. Stras. The poll from seven of the precincts of Lee county were not properly certified. At six of these precincts the poll was not certified by either the conductors or commissioners of election. If the poll from these precincts was rejected, Mr. Stras was elected; if the votes were counted, Mr. Fulkerson was elected. The case was submitted to the Attorney-General of the State, who gave it as his opinion that Mr. Fulkerson was elected. He said:

"It is true that the law requires the conductors and commissioners to certify the correctness of the poll. This must be, as it has ever been, construed as directory, but not essential to the validity of the poll. It was never designed to defeat the popular will by a deficiency in formalities, which the law only prescribed to secure its full and free expression; and however important these may be, it would be monstrous to set aside the voice of the people, because a public officer failed to do his duty."

The facts of the case and the opinion of the Attorney-General being submitted to the Governor of the State, he fully concurred in the reasoning of the law officer of the State, and commissioned Mr. Fulkerson. The Governor said :

"No mere failure of ministerial and executive officers to do their duty can either vitiate or nullify the votes of the people to elect a judge or other officer, if they, being legal voters, *did in fact*, at the time and places, and in the manner prescribed by law, declare their votes. * * The officers, conductors and commissioners, at some of the precincts, have incurred penalties, but the legal voters are not thereby to lose their votes actually polled." (See the case reported in the Quarterly Law Journal for 1858, p. 47.)

In this case, at six of the precincts of Lee county, the poll was not certified by either the conductors or commissioners of election; at the seventh precinct it was not certified by the conductor. The authentication of these returns was wanting. The seal of the election officers was not on them. They might have been spurious papers. In the present case between Mr. Tukey and myself, with regard to the sixth magisterial district of Augusta, the votes were, beyond question, cast as returned, the officers conducting the election certify in proper form to the poll, the central board of officers at the court-house further add their authentication, and General Schofield examines and endorses the returns. The whole irregularity here is that there was a few hours' delay in counting the votes, and that the ballot-box was not technically "sealed," although remaining in the custody of the sworn officers of the United States.

But if all the votes of the sixth magisterial district of Augusta are thrown out, there being only one hundred and thirty-one cast there for me, it will not affect my election, my majority being over three hundred in the three counties.

Another specification is, that in the county of Albemarle Mr. T. W. Savage, a commissioner of election, erased Tukey's name on some tickets, and substituted his own. I suppose it is not meant that this was done after the ballots had been deposited in the ballot-box; if it was, of course Mr. Tukey is entitled to the votes; but if the charge is (and I so understand it) that Tukey's name was erased from certain tickets before the election, or before the ballots were voted, there is no sense in the point. It is very common to strike names off of a ticket and substitute others; the voter is presumed to know what names are on his ticket, and if he does not, that is his own fault, and he must take the consequences. It is to be presumed that the few persons who voted for Mr. Savage (a radical in politics) meant to vote for him; and if Mr. Tukey affirms that they did not, I affirm that the persons who voted for Mr. Tukey did not mean to vote for him.

Of course depositions will be taken, however, if this petition is not abandoned, to ascertain the exact facts in the premises.

The last point (and the most amusing) in Mr. Tukey's petition, sets forth

that at Porter's precinct, in Albemarle, one of the commissioners of the election told the colored voters "that the Republican candidates were Democrats, and if elected, would vote to re-enslave them again," and therefore, says Mr. Tukey, these votes ought to be thrown out. The proposition amounts to this, that wherever, after an election, it can be proved that a lie was told to a voter previous to the election, the vote is to be thrown out; and as every voter in every election has some lie told him, either privately, or from the stump, or through the newspapers, the result would be that all the votes in all elections ought to be set aside, and we should have no elections at all. In an election for constable, named A, one D tells C that A had stolen a pig, and C votes for B (whom he had intended to vote for all along), and, according to Mr. Tukey's views, the vote ought to be thrown out. In a presidential election Mr. Clay is charged by A, in the presence of B, with having been guilty of "bargain and corruption" on a certain occasion, and B votes for Mr. Polk; this vote, according to Mr. Tukey, ought to be thrown out.

Even if the principle were to be for a moment accepted, Mr. Tukey would have to prove that the remark attributed to the election officer was made, and secondly, that the colored voters who voted for me were influenced by it, which second point could only be proved by taking the deposition of each colored voter in question, amounting to nearly two hundred and fifty.

But even if this vote were taken from me, I have still a majority of some seventy voters in the district.

In view of these statements, I hope the Convention will dismiss the petition of Mr. Tukey at once, as unworthy of farther occupying the attention of the Convention, or even of the Committee on Elections.

I would add that since my arrival in Richmond I have learned, at General Schofield's Headquarters, that a mistake was made in adding up the returns from Albemarle county, and that my majority in that county over Mr. Tukey is two hundred greater than reported.

As soon as I can procure an official copy from General Schofield's office, I will file with this paper a tabular statement of the election returns from the district which I represent, which I shall also ask to have printed.

Respectfully,

JAS. C. SOUTHAALL.

December 17, 1867.

A

LETTER OF MR. TUKEY TO MR. SOUTHALL.

STAUNTON, VA., November 21, 1867.J. C. SOUTHALL, Esq., *Charlottesville, Va.*

SIR :

Having been a competitor of yours in the recent election for the position of delegate to the Constitutional Convention, for the district composed of the counties of Augusta, Albemarle and Louisa, and you having received the returns as delegate elect, and believing, as I do, that I was legally elected, I hereby notify you that it is my purpose to contest your seat, and upon the following grounds :

1st. Your ineligibility.

2d. I shall contest the votes of the sixth magisterial district of this county.

My objection thereto being a violation of General Order No. 68, paragraph 12, (from Military Head Quarters,) in the manner of conducting the election.

3d. Perhaps I shall also contest the vote of Porter's precinct in Albemarle county, upon the ground of improper influence having been brought to bear upon the voters thereof.

Very respectfully, yours,

FREDERICK S. TUKEY.

B

COPY OF LETTER TO MR. TUKEY.

CHARLOTTESVILLE, NOVEMBER 22, 1867.

FREDERICK S. TUKEY, Esq.,

SIR :

Accept my acknowledgments for your letter of date of yesterday, informing me that you will contest my seat in the approaching State Convention.

If you are legally entitled to the same, I trust I shall yield the position without a sigh.

My object in writing is to inquire the grounds on which you claim the seat. Please inform me what you mean by my being "ineligible," and if you refer to the fact of my not having registered, mention the clause of the Reconstruction Acts on which you rely as disqualifying me in view of that fact.

2d. Please inform me of the ground on which you will "contest the votes of the 6th magisterial district in Augusta." In what particular was section 12 of General Order No 68 violated?

3d. Please state what improper influence was exerted at Porter's precinct in this county.

You will oblige me by an early reply.

Respectfully,

JAMES C. SOUTHALL.

C

SECOND LETTER OF MR. TUKEY TO MR. SOUTHALL.

STAUNTON, VA., November 25th, 1867.

JAS. C. SOUTHALL, Esq.:

SIR :

Yours of the 23d instant is before me, and contents carefully considered.

I have no disposition whatever to withhold any proper information, or treat the subject in any other way than in a candid and frank manner. Yet I am of the opinion, after having weighed the subject carefully, that neither justice nor courtesy demand further explanation from me on the points raised in yours.

There are, however, one or two other points of which I will speak, and may contest, which I did not allude to in my last. I allude to the votes received by T. W. Savage, of Albemarle, and also to threats that I have been informed were made to the voters in the county generally.

Very respectfully,

FREDERICK S. TUKEY.

REPORT

OF THE

JUDICIARY COMMITTEE

IN RELATION TO

DEBTS AND OBLIGATIONS

INCURRED BY THE

PURCHASE OR SALE OF SLAVES SINCE JAN'Y 1, 1860.

The Judiciary Committee, to whom was referred the following resolution :

“Resolved, That all debts contracted and obligations incurred by the purchase or sale of slaves since 1st January, 1860, be declared null and void, in view of the fact that no just compensation was received for the obligation^s or debts thus incurred,”

—Has had the subject under consideration, and ask leave to submit the following report :

That this resolution presents to the committee the consideration of the question, whether this Convention has the power to interfere with, or in any manner to impair the obligations of existing contracts. In the solution of this question the committee has not been confined by any supposed limitations or restrictions placed upon the Convention by the law of Congress calling it into existence, but has examined it as though this body was clothed with the sovereign power of the State, and limited only by the Constitution of the United States. By reference to Section 10 of 1st Article of that instrument, it will be seen that it provides : That “no State shall pass any bill of attainder, ex post facto law, or law impairing the obligations of contracts,” &c.

In the opinion of the committee the word “State,” as used in the clause quoted, includes not only the General Assembly, but any other body or assemblage of men representing the people of the State, and convened pursuant to law, by whatever name it may be called. Believing this to be the true construction of the clause referred to, the committee is of the opinion that the power to pass any law or ordinance impairing the obligation of contracts, is expressly denied to the State, and that this Convention has no authority to act in the premises whatsoever.

The resolution aforesaid raises no question as to the validity of the contracts at the time they were entered into, but seeks to relieve the obligors from the

force and obligation thereof, upon the ground that they were deprived of the consideration by the emancipation of the slaves subsequent thereto. Without expressing any opinion as to the validity of such defence, the committee has no doubt that the courts of the State have full and complete jurisdiction in all cases of failure of consideration, as defined by law, and that the parties, if entitled to relief, must seek and obtain it in those tribunals.

In arriving at these conclusions, the committee has not been unmindful of the impoverished condition of the State, and of the pecuniary embarrassments which have overtaken so many of its citizens. But whilst sympathising with the debtor, and acknowledging his claim upon us as individuals to all reasonable indulgence, the committee, where required to pass upon grave questions of constitutional interpretation, does not feel warranted in yielding to sympathy or prejudice, or by its action to awaken in that unfortunate class hopes of relief which can never be realized.

The committee is furthermore of opinion, that if this Convention had the power to act in the premises, it would be unwise and inexpedient to exercise it. Regarding all movements looking to repudiation of public or private debts, or in any way interfering with the obligation of contracts as immoral in their character, and tending to destroy all public and private credit, this committee feels that it would be derelict in duty to themselves, and to this Convention, to recommend any measure, the adoption of which would add to the misfortunes of the people, the stigma of a breach of plighted faith, and the disgrace of solemn contracts.

Upon all of these questions the committee was unanimous, and recommend the adoption of the following resolution :

Resolved, That this Convention has no power to grant the relief sought in the resolution aforesaid, and that it be discharged from the further consideration of the subject.

Respectfully submitted,

December 19, 1867.

C. Y. THOMAS, Chairman.

REPORT OF COMMITTEE
ON THE
PREAMBLE, BILL OF RIGHTS
AND
Division of the Powers of Government.

The committee to whom were referred the Preamble, Bill of Rights and Division of the Powers of Government have had the subjects to them referred under consideration, and have, in performance of the duties devolved upon them, agreed to recommend to the Convention the adoption of the following Preamble, Bill of Rights, and Articles one and two of the Constitution :

A DECLARATION OF RIGHTS, *made by the representatives of the good people of Virginia, assembled in full and free Convention, which rights do pertain to them and their posterity as the basis and foundation of government.*

I. That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity ; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

II. That the authority of the General Government of the United States is paramount to that of an individual State, except as to rights guaranteed to each State by the Constitution of the United States ; and that, therefore, the first allegiance of a citizen of any State is due to the General Government.

III. That all power is vested in, and consequently derived from, the people ; that magistrates are their trustees and servants, and at all times amenable to them.

IV. That government is, or ought to be, instituted for the common benefit, protection and security of the people, nation or community ; of all the various modes and forms of government, that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of maladministration ; and that, when any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable and indefeasible right to reform, alter or abolish it, in such manner as shall be judged most conducive to the public weal.

V. That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services; which, not being descendible, neither ought the offices of magistrate, legislator or judge to be hereditary.

VI. That the legislative, executive and judicial powers should be separate and distinct; and that the members thereof may be restrained from oppression, by feeling and participating the burthens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain and regular elections, in which all, or any part of the former members, to be again eligible or ineligible, as the laws shall direct.

VII. That all elections ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property for public uses, without their own consent, or that of their representatives so elected, nor bound by any law to which they have not, in like manner, assented, for the public good.

VIII. That all power of suspending laws, or the execution of laws by any authority, without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

IX. That, in all capital or criminal prosecutions, a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favor, and to a speedy trial by an impartial jury of twelve men of his vicinage, without whose unanimous consent he cannot be found guilty; nor can he be compelled to give evidence against himself; that no man be deprived of his liberty, except by the law of the land or the judgment of his peers.

X. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

XI. That general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

XII. That, in controversies respecting property, and in suits between man and man, the ancient trial by jury of twelve men is preferable to any other, and ought to be held sacred.

XIII. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments.

XIV. That a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural and safe defence of a free State; that standing armies, in time of peace, should be avoided as dangerous to liberty, and that in all cases the military should be under strict subordination to, and governed by, the civil power.

XV. That the people have a right to uniform government; and, therefore, that no government separate from, or independent of, the government of Virginia, ought to be erected or established within the limits thereof.

XVI. That no free government, or the blessings of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality and virtue, and by a frequent recurrence to fundamental principles.

XVII. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and, therefore, all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love and charity towards each other.

CONSTITUTION OF VIRGINIA.

Whereas the delegates and representatives of the good people of Virginia, in convention assembled, on the 29th day of June, in the year of our Lord one thousand seven hundred and seventy-six—reciting and declaring, that whereas George the Third, King of Great Britain and Ireland and Elector of Hanover, before that time entrusted with the exercise of the kingly office in the government of Virginia, had endeavored to pervert the same into a detestable and insupportable tyranny, by putting his negative on laws the most wholesome and necessary for the public good; by denying his governors permission to pass laws of immediate and pressing importance, unless suspended in their operation for his assent, and when so suspended, neglecting to attend to them for many years; by refusing to pass certain other laws, unless the persons to be benefited by them would relinquish the inestimable right of representation in the legislature; by dissolving legislative assemblies repeatedly and continually, for opposing with manly firmness his invasions of the rights of the people; when dissolved, by refusing to call others for a long space of time, thereby leaving the political system without any legislative head; by endeavoring to prevent the population of our country, and for that purpose obstructing the laws for the naturalization of foreigners; by keeping among us, in time of peace, standing armies and ships of war; by affecting to render the military independent of, and superior to, the civil power; by combining with others to subject us to a foreign jurisdiction, giving his assent to their pretended acts of legislation, for quartering large bodies of armed troops among us, for cutting off our trade with all parts of the world, for imposing taxes on us without our consent, for depriving us of the benefits of the trial by jury, for transporting us beyond seas for trial for pretended offences, for suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever; by plundering our seas, ravaging our coasts, burning our towns, and destroying the lives of our people; by inciting insurrections of our fellow-subjects with the allurements of forfeiture and confiscation; by prompting our negroes to rise in arms among us—those very negroes whom, by an inhuman use of his negative, he had refused us permission to exclude by law; by endeavoring to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions of existence; by transporting hither a large army of foreign mercenaries to complete the work of death, desolation and tyranny, then already begun with circumstances of cruelty and perfidy unworthy the head of a civilized nation; by answering our repeated petitions for redress with a repetition of injuries; and finally, by abandoning the helm of government, and declaring us out of his allegiance and protection; by which several acts of misrule, the government of this country, as before exercised under the crown of Great Britain, was totally dissolved—did, therefore, having maturely considered the premises, and viewing with great concern the deplorable condition to which this once happy country would be reduced, unless some regular, adequate mode of civil policy should be speedily adopted, and in compliance

with the recommendation of the general congress, ordain and declare a form of government of Virginia :

And whereas a convention held on the first Monday in October, in the year one thousand eight hundred and twenty-nine, did propose to the people of the Commonwealth an amended constitution or form of government, which was ratified by them :

And whereas the General Assembly of Virginia, by an act passed on the fourth of March, in the year one thousand eight hundred and fifty, did provide for the election, by the people, of delegates to meet in general convention, to consider, discuss and propose a new constitution, or alterations and amendments to the existing constitution of this Commonwealth ; and by an act passed on the thirteenth of March, in the year one thousand eight hundred and fifty-one, did further provide for submitting the same to the people for ratification or rejection ; and the same having been submitted accordingly, was ratified by them :

And whereas the General Assembly of Virginia, by an act passed on the twenty-first day of December, in the year one thousand eight hundred and sixty-three, did provide for the election, by the people, of delegates to meet in general convention to consider, discuss and adopt alterations and amendments to the existing constitution of this Commonwealth, the delegates so assembled did, therefore, having maturely considered the premises, adopt a revised and amended constitution as the form of government of Virginia :

And whereas the Congress of the United States did, by an act passed on the second day of March, in the year one thousand eight hundred and sixty-seven, and entitled "An act to provide for the more efficient government of the rebel States," and by acts supplementary thereto, passed on the twenty-third day of March and the nineteenth day of July, in the year one thousand eight hundred and sixty-seven, provide for the election, by the people of Virginia, qualified to vote under the provisions of said acts, of delegates to meet in convention to frame a constitution, or form of government for Virginia, in conformity with said acts ; and by the same acts did further provide for the submitting of such constitution to the qualified voters for ratification or rejection :

We, therefore, the delegates of the good people of Virginia, elected and in convention assembled, in pursuance of said acts, have adopted the following constitution and form of government for this commonwealth :

ARTICLE I.

BILL OF RIGHTS.

The declaration of rights, as prefixed to this constitution, shall have the same relation thereto as it had to the former constitution.

ARTICLE II.

DIVISION OF POWERS.

The legislative, executive and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to either of the others ; nor shall any person exercise the powers of more than one of them at the same time, except that justices of the peace shall be eligible to either house of assembly.

JAMES H. PLATT, JR.,
Chairman of Committee.

MEMORANDUM

Of Reply by Major-General Schofield to the Committee of the Virginia Constitutional Convention, appointed January 4, 1868, to confer with General Schofield and the Auditor of Public Accounts upon the subject of the Pay of Members and Employees of the Convention.

“Soon after the passage of the act of Congress of March 2d, 1867, a bill passed the Senate of the General Assembly of Virginia, providing for the calling of a Convention in accordance with the terms of the said act of Congress. That bill was under consideration in the House of Delegates when, at the extra session in March, 1867, Congress had under discussion the bill supplementary to the act of March 2d, requiring the Commanding General, instead of the State government, to call the Convention, which bill finally became a law March 23d. Pending this legislation of Congress, the bill under consideration in the House of Delegates was laid upon the table. While the question of calling a Convention was under consideration in the General Assembly, the tax bill for the current year was framed and brought before the House of Delegates. In making up the estimate upon which that bill was based, an item of one hundred thousand dollars was included to defray the expenses of a Constitutional Convention. The tax bill, framed upon the basis above referred to, was passed and became a law some time subsequent to the passage of the act of Congress of March 23d, and after the bill for calling a Convention was laid on the table by the Virginia House of Delegates. The sum of one hundred thousand dollars, estimated and included in the tax bill as above stated, was clearly intended by the State Legislature to be appropriated to the payment of the expenses of a Convention to be called in pursuance of the act of Congress.

“No special appropriation was made by the Legislature, for this or any other purpose, for the fiscal year commencing on the first day of October, 1867; but in lieu of special appropriations, a general appropriation was made for the current expenses of the Commonwealth. The Auditor of Public Accounts does not, and very properly, regard the above enactment as sufficient authority for him to issue warrants for the payment of expenses of the Convention, but is willing to issue such warrants upon my orders, based upon ordinances of the Convention.

“The act of Congress of March 23d having authorized the Convention to levy and collect a tax for the payment of its expenses, and the State Legislature having, subsequent to the passage of that act of Congress, passed a tax bill including an estimate for the same purpose, it is clear that the money collected and paid into the treasury in pursuance of the act of the General Assembly ought to be used for the purpose contemplated, and the people thus saved the great burden of a special tax and the expense of collecting it in a time of general depression.

"It may be questioned whether there is in the acts of Congress any specific authority for my order for the payment of monies out of the State treasury. However this may be, I have no hesitation in deciding that it is my duty to do in this case what is so clearly demanded by the best interests of the State, leaving it to those who have a right to judge, including the people of Virginia, to hereafter vindicate the wisdom, justice and substantial legality of my action.

"I will, as heretofore, authorize and direct the Auditor of Public Accounts to issue warrants for the payment of the *per diem* of members and officers, and other expenses authorized by ordinances of the Convention, from time to time, as the condition of the treasury may justify; the amount so paid not to exceed the sum realized from the tax levied for that purpose. This amount, it is estimated by the Auditor, will be somewhat, though not much, less than the amount estimated, and will no doubt be paid into the treasury as rapidly as needed.

"It may be proper to suggest for the consideration of the Convention, whether the amount estimated and collected may not be sufficient to defray the expenses of any election that may be ordered by the Convention, in addition to the support of the Convention while in session."

A true copy :

J. A. CAMPBELL,
Brevet Lt. Col. U. S. A., A. A. A. G.

COMMUNICATION
FROM THE
AUDITOR OF PUBLIC ACCOUNTS.

STATE OF VIRGINIA,
AUDITOR'S OFFICE,
RICHMOND, VA., *January 8, 1868.*

To the HON. JOHN C. UNDERWOOD, *President of the Convention :*

SIR :

I beg leave to hand herewith a statement, prepared at the request of the Convention, showing the amount of tax assessed upon oysters, under the act of Assembly passed the 3d of March, 1866, and the amount of expenses incurred in its collection.

The tax collected, it will be observed, has been comparatively small, and the expense heavy. It is proper to state that the collection would have been from twenty to thirty thousand dollars more, but for the defalcation of the late Collector in Portsmouth, Mr. Hurst, by which the State lost about the sum I have indicated, less some five thousand dollars State stock realized from Hurst's sureties.

It is confidently believed that as soon as the three steamers, now in progress of building, shall be completed and ready for use, which will be probably during the coming week, the expenses of collecting will be materially diminished and the revenue largely increased. I see no reason to change the opinion I have uniformly expressed upon the subject, that unless some restrictive legislation should be interposed, a nett revenue of from one to two hundred thousand dollars can be realized from this source of taxation, without being oppressive to those who may engage in the business.

This communication would have been sent in at an earlier day, but in the pressure of business upon the office the matter was overlooked, though the statement itself was prepared in December.

I am, very respectfully,

WM. F. TAYLOR,
Auditor Public Accounts.

A STATEMENT

Showing the amount of Taxes assessed, collected and paid into the public Treasury under the act of the General Assembly, passed March 3d, 1866, entitled "An act imposing a tax on oysters," and also the expenses incurred in the assessment and collection of the same, prepared in compliance with a resolution adopted by the Convention on the 16th December, 1867.

Amount of taxes charged, so far as returns have been received...	\$64,062 46
Commissions to collectors passed to their credit.....	\$ 6,237 69
Allowance to W. H. C. Lovett, Inspector, for expense of chartering boats, &c., for collection of taxes.....	711 78
Warrants on the treasury for expense of constructing three steamers, now nearly completed.....	13,829 34
Warrants on the treasury to W. H. C. Lovett for expenses of collection.....	1,582 40
	<u>\$22,361 21</u>
Amount paid into the treasury on account of the tax on oysters \$56,289 20, less \$21 65 over-paid by, and refunded to, a collector..	<u>\$56,267 55</u>

WILLIAM F. TAYLOR,

Auditor Public Accounts.

Auditor's Office, Richmond, Va., December 30th, 1867.

PREAMBLE OFFERED BY MR. LIGGETT.

Whereas, the government of the United States, on the secession of Virginia from the Federal Union, assumed and declared such act of secession to be in violation of the constitution entered into between Virginia and the other States of the Union, and therefore nugatory, and that the *status* of Virginia as a member of the Federal Union was permanent, fixed and unchangeable; and whereas the war waged and the armies collected by the Federal Government against the State of Virginia and her sister Southern States, united together under the style of the Confederate States of America, was for the avowed and published purpose, expressed in executive proclamations and congressional enactments, of preserving intact the State of Virginia and other States confederated together as members of the Federal Union, in accordance with the powers subsisting on the formation thereof; and whereas the pains and penalties for political offences cannot be visited upon the government of any federative member by the general government of the federation, but only on individuals regularly tried and convicted by due form of law, and the terms agreed upon on the cessation of hostilities between the North and the South did in no manner claim or establish a power or right to the prevailing section to dispose of the eminent domain of the seceded States as conquered foreign territory, or the private property of the citizens thereof, as confiscated; and whereas the benefit of amnesty was granted by the Executive of the United States to many citizens of the Southern seceded States engaged in what was termed by the North rebellion, on their compliance with certain conditions, and which amnesty was accepted by them and the conditions fully met; and whereas amnesty, under the laws of nations, means the burying in oblivion of all past acts or offences, and a removal of any penalties attaching to such offences from the person so offending; and whereas the Congress of the United States has, in defiance of these executive proclamations and antecedent congressional enactments made previous to the surrender of General Lee, and in opposition to the laws of nations, refused to recognize the seceded States, among which was Virginia, as members of the Federal Union, entitled to the rights, privileges and immunities of States, and has infringed the amnesty granted to the citizens of such State, treating these States as foreign conquered provinces and the citizens thereof as criminals; and instead of recognizing the seceding States as restored to the United States government as members of the Federal Union, has proceeded to initiate a reconstruction of the State governments thereof, or the building up of an entirely new formation, under a bill known as the Sherman-Shellabarger bill, which said bill is in direct conflict with the Constitution of the United States, the rights of the States under said Constitution, with the solemn protestations of the executive and legislative branches of the United States government, violating amnesty, assuming treason—*ex post facto* in its operation—abolishing in effect the great writ of *habeas corpus* and the right of trial by jury, making the civil tribunals of the State subordinate to and under the control of military authority,

investing ignorant and incapable men with the elective franchise, and depriving those legitimately entitled thereto of its exercise ; and whereas the people of the State of Virginia who had adhered to the South in the late difficulties between the North and South after numerical force had triumphed, and they had re-assumed allegiance to the Federal government, were loyal and true to their allegiance ; and whereas they have been coerced, under this congressional bill, into an election of members of a Convention, which Convention is the body now sitting in the capitol for the purpose, under congressional dictation, of forming a constitution for the said State of Virginia :

Now the members of this Convention, by reason of the facts set forth, do hereby declare that they have no right to frame any constitution for the State of Virginia ; that the bill being illegitimate which called it into existence—the product of congressional violence on constitutional rights—all the acts of such Convention must necessarily be usurpative and nugatory ; and this being so, they do hereby declare all proceedings appertaining to the formation of a State constitution as adjourned without day.

REPORT OF COMMITTEE
ON
PRIVILEGES AND ELECTIONS,
RELATIVE TO THE
ELIGIBILITY OF FAYETTE MAUZY
TO A SEAT IN THE
VIRGINIA CONSTITUTIONAL CONVENTION,
WITH ACCOMPANYING PAPERS.

To the Honorable the State Constitutional Convention of Virginia :

The Committee on Privileges and Elections ask leave to submit the following unanimous report :

The Committee were instructed, in the form of a resolution, by the Convention to inquire and report the names of all persons holding seats in the Convention who were *disfranchised* by the Reconstruction acts of Congress. (Which resolution, marked "Exhibit A," is herewith filed.)

The Committee, not desiring to be at all technical, have regarded the resolution as equivalent to directing the Committee to inquire into the question of the *eligibility* of persons occupying seats in the Convention, and have accordingly, from time to time, procured official information from Military Headquarters and from other sources in relation to that question.

The Committee have fully and patiently investigated the case of Mr. Fayette Mauzy, who holds a seat in the Convention as the delegate from Culpeper county, and have by a unanimous vote decided that it was very properly a case wherein the statement of the facts, without any specific conclusion, should be reported to the Convention—a proceeding fully authorized by the general parliamentary law.

On the one hand it is contended that the disfranchisement of Mr. Mauzy, and consequent ineligibility as a member of the Convention, is made out by the alleged facts that he held the office of Clerk of the County Court of Culpeper county before the war, and afterwards engaged in insurrection or rebellion against the United States, or gave aid or comfort to the enemies thereof by voting for the ratification of the ordinance of secession.

On the other hand, while it is admitted that Mr. Mauzy held said office before and at the commencement of and during the rebellion, it is claimed that it does not belong to either class of offices enumerated in the 3d section of the proposed amendment to the Constitution of the United States, known as Article XIV.; and that the provision in section 6 of the act of Congress passed July 19, 1867, "to provide for the more efficient government of the rebel States," construing the words "executive or judicial office in any State," mentioned in a previous act upon the same subject, passed March 23, 1867, "to include all civil offices created by law for the administration of any general law of a State, or for the administration of justice," it is insisted has reference to the qualification of the voter, and not to eligibility to office.

It is also claimed, on the part of Mr. Mauzy, that there is no sufficient proof that he voted for the ratification of the ordinance of secession, and that if there is, it is claimed, among other things, that the pardon of the President of the United States remitted him to all his former rights, and relieves him from all disabilities.

The committee will now proceed to furnish your body with a statement of the facts which they have had before them :

It appears, in evidence, that Mr. Mauzy was first elected and qualified as clerk of the county court of Culpeper county on the 20th day of May, in the year 1839, and "took the several oaths prescribed by law." (Vide certificate, marked Exhibit "B.")

As the laws of Virginia at that period required officers generally, including county clerks, to take the oath to support the Constitution of the United States, no doubt can arise that such oath was taken by Mr. Mauzy at the time he qualified for said office.

It further appears that Mr. Mauzy was registered as a voter in the 1st magisterial district of Culpeper county, at the first session of the Board of Registration in June, 1867, but at the second session of the Board in August, his name was transferred to the rejected list, and the following entry made : "Mauzy, Fayette, 1st district; age 66; occupation, clerk of the court; length of residence in State, 66 years; in district, 12 months; born in Culpeper; former office, clerk of county court; remarks, voted for the ordinance of secession." (Vide communication, marked Exhibit "C.")

Captain W. A. MacNulty, the President of said Board of Registration, was sworn and examined as a witness before your committee, and testified, among other things, that Mr. Mauzy did not appear before the Board at its second session, and upon the evidence of Mr. George S. Cady, a member of the Board, and instructions from General Schofield, (see Exhibit, marked "D,") his name was transferred to the rejected list.

The following memorandum was made opposite his name after being transferred to the rejected list, viz : "Clerk of county court of Culpeper, Virginia; voted for the ordinance of secession." (Vide testimony of Captain MacNulty, on January 8, 1868, marked Exhibit "E.")

Mr. George S. Cady, a member of said Board of Registration, and referred to in the testimony of Captain MacNulty, was also sworn and examined as a witness before the committee, and among other things, testified as follows :

"Captain MacNulty ordered me to go to the clerk's office and get the names of all those who held office before the war, and I went to the clerk's office, to Mr.

Mauzy, for the names of all who held office before the war, and he said the papers were destroyed, but if I brought him the Registration lists he would check off the names as far as he knew, of all that held office, according to his recollection. I went back to my office and got the Registration lists, and brought them to Mr. Mauzy, and he checked off some eight or ten names, as far as I can remember, his name among the rest. I think he said to me what was I procuring those names for, and I told him to revise the Registration lists. I had a conversation with Mr. Mauzy, in which I asked him if he voted for the ratification of the ordinance of secession, and he told me that he really did not remember whether he did or not, but if he did vote, he voted for the ratification of the ordinance of secession. He said he had not much doubt but what he voted, as it was a very excitable time." (See testimony of George S. Cady, marked Exhibit "F.")

The Committee will here state that the poll-books of the vote which was taken on the question whether the ordinance of secession should be ratified or not, were destroyed during the war. (Vide certificate marked Exhibit "B.")

The testimony of Captain MacNulty also shows, that a final revision of the Registration lists was made by the Board, in conformity with orders from the General Commanding. About ten notices were posted in the 1st district for the final revision which took place on the 8th of October, and continued five consecutive days.

The substance of the notice for the final revision was that all persons entitled to register, who did not register at the previous sessions, would have an opportunity of doing so at the time specified in the notices. "The names of all those stricken off the lists" (at the second session) were published. If a party could show that he had been improperly stricken off the list at the second session, he could be restored to the list of voters at the final revision.

Mr. Mauzy made no application to the Board to be restored to the list of voters, at the final revision of the lists. (Vide Capt. MacNulty's testimony, January 9, 1868, marked Exhibit "G.")

It further appears from the testimony of Capt. MacNulty, that after the second session of the Board, notices containing the names of those stricken from the list, were posted, in pursuance of military orders. That about four such notices were posted in each magisterial district, except in the 1st district, which is larger than any of the others, about ten were posted, including the name of Mr. Mauzy. Mr. Mauzy resided in the 1st district. The object of the notice was to bring the objected parties before the Board, if they so desired after seeing the notice. (Vide Exhibit marked "E.")

Your committee will further state that on the 9th instant, Mr. Mauzy was before the committee, and having read the testimony of Captain MacNulty and Mr. Cady, stated that under the construction placed upon the Act of Congress of July 19, 1867, by General Schofield, he could not conscientiously take the registration oath prescribed in the Act of March 23, but under his own construction, could take said oath.

The committee are of opinion that they have now referred to all the evidence, oral or otherwise, bearing materially upon the question of the eligibility of Mr. Mauzy to a seat in the Convention, except the oath of amnesty taken and subscribed by him in June, 1865. (See Exhibit marked "H.")

Your committee would also refer generally to Exhibits marked respectively I, K, L, and to letter, dated October 16, 1867, published in Document No. 1, page 39.

The committee will also state that Mr. Mauzy protested in writing, bearing date December 19, 1867, against the consideration by the committee of any and all matters concerning his right to a seat in your body, for reasons therein given and set forth. (Vide Protest, marked Exhibit "M.")

In the event of your body declaring Mr. Mauzy ineligible to his seat, the question will arise whether a new election should take place in Culpeper county, or whether the person who received the next highest number of votes should be entitled to Mr. Mauzy's seat.

If the Convention should arrive at the latter conclusion, it becomes necessary to state that Mr. John M. Botts received the next highest vote to Mr. Mauzy at the election held in Culpeper county, on the 22d day of October, 1867, for delegates to the present Convention. (See Exhibit marked "N.")

Respectfully submitted.

Dated January 11th, 1868.

CHARLES H. PORTER, Chairman.

EXHIBIT A.

COPY OF RESOLUTION CREATING THE COMMITTEE.

Resolved, That the Committee on Elections be, and they are hereby, instructed to ascertain if there be any members of this Convention who are disfranchised by the recent acts of Congress, known as the Reconstruction Acts, and that they report their names, if any, to this Convention as soon as practicable.

Adopted 6th December, 1867.

EXHIBIT B.

CERTIFICATE OF THE CLERK OF THE COUNTY COURT OF CULPEPER.

Culpeper County Court, 20th day of May, 1839 :

And it appearing to the court that the said Fayette Mauzy on such vote, has received a majority of the whole number of justices present, it is, therefore, ordered that he be duly appointed clerk of this court for and during the term of seven years from this time ; and thereupon he, together with S. K. Bradford and William Green, his securities, entered into and acknowledged a bond in the penalty of three thousand dollars, conditioned as the law directs ; and the said Fayette Mauzy took the several oaths prescribed by law.

A copy—Teste : _____

F. MAUZY, *Clerk.*

Culpeper County Court, 18th day of May, 1846 :

And thereupon the said Fayette Mauzy being duly elected clerk of this court, he entered into and together with Samuel K. Bradford and Wm. Green, his sureties, acknowledged a bond for the faithful discharge of his duties as such clerk, and for paying the taxes so received by him, into the public treasury, and took the several oaths required by law.

A copy—Teste : _____

F. MAUZY, *Clerk.*

Culpeper County Court, 19th July, 1852 :

Fayette Mauzy, who hath been duly elected clerk of this court for six years, from the 1st day of July, 1852, came into court and entered into bond with security in the penalty of three thousand dollars, conditioned according to law, and took the several oaths prescribed by law.

A copy—Teste : _____

F. MAUZY, *Clerk.*

Culpeper County Court, 21st day of June, 1858 :

Fayette Mauzy, who hath been elected clerk of this court for six years, commencing on the 1st day of July next, entered into bond with security, according to law, and qualified as such clerk.

A copy—Teste : _____

F. MAUZY, *Clerk.*

Culpeper County Court, 20th June, 1864 :

F. Mauzy entered into bond with security, and qualified as clerk of this court for the term commencing the 1st day of July next.

A copy—Teste : _____

F. MAUZY, *Clerk.*

Culpeper County Court, 21st August, 1865 :

Fayette Mauzy having been returned duly elected clerk of this court, came into court and entered into bond with security, and qualified according to law.

A copy—Teste : _____

F. MAUZY, *Clerk.*

Clerk's office County Court of Culpeper, December 24th, 1867 :

I, F. Mauzy, clerk of the county court of Culpeper, do hereby certify that the poll-books of the vote which was taken on the question, whether the ordinance of secession should be approved or not, are not now in my office, having been destroyed during the late war.

F. MAUZY, *Clerk.*

EXHIBIT C.

COMMUNICATION FROM GENERAL SCHOFIELD IN RELATION TO
MR. MAUZY.HEADQUARTERS FIRST MILITARY DISTRICT,
STATE OF VIRGINIA, Richmond, Va., Dec. 19, 1867.

MR. CHARLES H. PORTER,
*Chairman Committee of Privileges and Elections,
Virginia State Convention, Richmond, Va. :*

SIR :

In response to the resolution of your committee of this date, I am directed by the Commanding General to inform the committee that Mr. Fayette Mauzy was registered as a voter in the first magisterial district of Culpeper county at the first session of the Board of Registration in June, but at the second session of the Board in August, his name appears under the head of list of persons in the county of Culpeper, State of Virginia, transferred to the rejected list after re-examination at the second session of the Board, in compliance with General Orders No. 47. The entry on the list is as follows :

"13. Mauzy, Fayette, 1st district; age, 66; occupation, clerk of the court; length of residence in State, 66 years—in district, 12 months; born in Culpeper; former office, clerk of county court; remarks, voted for the ordinance of secession."

A copy of General Orders No 47, current series, from these Headquarters, issued subsequent to the first registration, is transmitted herewith for your information.

Very respectfully,
Your obedient servant,

J. A. CAMPBELL,
Brevet Lieut. Col. U. S. A., A. A. A. G.

EXHIBIT D.

COPY OF GENERAL SCHOFIELD'S LETTER TO CAPTAIN McNULTY, APPROVING HIS NOTICE OF THE REVISION OF THE REGISTRATION LISTS.

HEADQUARTERS FIRST MILITARY DISTRICT,

STATE OF VIRGINIA, Richmond, Va., August 6th, 1867.

Brevet Captain W. A. McNULTY,

President of the Board of Registration, Culpeper county,

Culpeper Courthouse, Virginia :

SIR :

Referring to your communication of the 30th ult., in which you enclose a copy of your notice of the second session of the Boards of Registration in Culpeper county, I am directed by the Major-General commanding to say that your notice is approved, and that whether the persons disfranchised by the act of July 19th, 1867, present themselves before the Board or not, their names will, upon what the Board may deem sufficient evidence of disqualification, be transferred to the list of rejected.

Very respectfully, your obedient servant,

(Signed)

S. F. CHALFIN, *Asst. Adj. General.*

EXHIBIT E.

TESTIMONY OF BREVET CAPTAIN W. A. MACNULTY, PRESIDENT
OF THE BOARD OF REGISTRATION, CULPEPER COUNTY.

Capt. MacNulty, being duly sworn, deposes and says as follows :

Question by the Chairman.—State whether you were President of the Board of Registration, Culpeper county, under the Reconstruction Acts of Congress?

Answer.—I was.

Q.—By whom were you appointed?

A.—General Schofield.

Q.—When?

A.—The 15th of April.

Q.—Was Fayette Mauzy registered by your Board as a voter?

A.—He was, at the first session.

Q.—State what further action was had, if any, in relation to the registration of Mr. Mauzy, at the second session?

A.—At the second session of the Board, which was held the 19th of August, under the authority of General Order No. 47, on August 5th a notice was published, inviting attention to General Order No. 47, under which order Clerks of the County Courts were included, and finding there would be some trouble in getting these officers before the Board, who were registered at the first session of the Board, I addressed a communication to the Commanding General, 1st Military District, and at the same time sent a communication to General Schofield, enclosing a copy of registration notice for the second session of the Board, to which I received a reply, which is marked R. The notice referred to, required all those persons who held office before the war, enumerated in General Order No. 47, paragraph 2, who had been registered at the first session of the Board as voters, to appear for re-examination.

Q.—What further action was taken?

A.—Mr. Mauzy did not appear before the Board, and upon the evidence of one of the members of the Board, (Mr. George S. Cady,) and instructions from General Schofield, marked R, his name was transferred to the rejected list.

Q.—Did you serve, or direct to be served, on Mr. Mauzy the printed notice referred to?

A.—I did not serve the notice upon Mr. Mauzy personally. I gave it publication.

Q.—About how many notices did you have posted?

A.—I had about ten (10) in the 1st District.

Q.—Was Mr. Mauzy Clerk of the Court at that time?

A.—He was then, and is now, as far as I know.

Q.—Also state what memoranda was made, if any, opposite his name, after being transferred to the rejected list?

A.—“Clerk of County Court of Culpeper, Va., voted for the ordinance of secession.”

Q.—State whether the Board, after the adjournment, posted the names of those stricken off at the second session from the list of the first session?

A.—Yes.

Q.—Was that in pursuance of military orders?

A.—Yes, sir.

Q.—How many notices were posted?

A.—About ten notices in the 1st district. We posted about four in each magisterial district; but this district being larger than the other district, more were posted.

Q.—In what district did Mr. Mauzy reside?

A.—In the 1st district.

Q.—How many notices were posted in the 1st district of those stricken off the registration list, including the name of Mr. Mauzy?

A.—About ten (10).

Q.—Was the object of the notice to bring the objected parties before the Board?

A.—If they so desired, after seeing the notice.

This closed the testimony of Captain MacNulty.

EXHIBIT F.

TESTIMONY OF GEORGE S. CADY, REGISTERING OFFICER
CULPEPER COUNTY.

Mr. Cady being duly sworn, deposes and says as follows:

Question by the Chairman.—State whether you were a member of the Board of Registration Culpeper county?

Answer.—I was.

Q.—Were you present at the second session of the Board?

A.—I was.

Q.—What action was taken by the Board in regard to the registration of Mr. Mauzy?

A.—He was stricken from the list of the first registration, and transferred to the rejected list.

Q.—On what grounds?

A.—On the ground of having voted for the ratification of the ordinance of secession.

Q.—Were there any other grounds?

A.—He was clerk of the county court before the war and during the war.

Question by Mr. Walton.—Are you the Cady referred to in the testimony of Captain MacNulty?

Answer.—I am, sir.

Q.—State anything you know within your personal knowledge in regard to the voting for the ratification of the ordinance of secession by Mr. Mauzy?

A.—Captain MacNulty ordered me to go to the Clerk's office and get the names of all those who held office before the war; and I went to the Clerk's office, to Mr. Mauzy, for the names of all who held office before the war, and he said the papers were destroyed, but if I brought him the registration lists he would check off the names, as far as he knew, of all that held office, according to his recollection. I went back to my office and got the registration lists, and brought them to Mr. Mauzy, and he checked off some eight (8) or ten (10) names, as far as I can remember, his name among the rest. I think he said to me, what was I procuring those names for, and I told him to revise the registration lists. And I had a conversation with Mr. Mauzy, in which I asked him if he voted for the ratification of the ordinance of secession, and he told me that he really did not remember whether he did or not; but if he did vote, he voted for the ratification of the ordinance of secession. He said he had not much doubt but what he voted, as it was a very excitable time.

Q.—That's all the conversation you had with him, at that time, in relation to that matter?

A.—As far as I can remember now, that is all.

Q.—Was there any person else present at the time you had that conversation with Mr. Mauzy?

A.—As far as I remember there was not.

Q.—Do you remember the time and place where the conversation occurred?

A.—I think it was the next day, or the afternoon, that I brought the registration lists.

This closed the testimony of Mr. Cady.

EXHIBIT G.

TESTIMONY OF BREVET CAPTAIN W. H. MACNULTY, AT RE-EXAMINATION ON THURSDAY, JANUARY 9, 1868.

Question by Mr. Walton.—Make a statement of your final revision of the registration lists, and how many were posted in the 1st magisterial district?

Answer.—A final revision of the registration lists was made by the Board in conformity with orders from the General Commanding. About ten (10) notices were posted in the 1st district, for the final revision, which took place on the eighth (8th) of October, and continued five (5) consecutive days.

Q.—What was the substance of the notices for the final revision?

A.—The substance of the notice for the final revision was, that all persons entitled to register, who did not register at the previous sessions, would have an opportunity of doing so at the time specified in notices.

Question by Mr. James.—Were the names of the persons stricken off the lists published?

Answer.—The names of all those stricken off the lists were published.

Question by the Chairman.—Could you restore, on the final revision, the names stricken off at the second session?

Answer.—If the party could show that he had been improperly stricken off, he could be restored to the list of voters.

Q.—At the final revision did Mr. Mauzy make application to be restored?

A.—Mr. Mauzy made no application to the Board to be restored to the list of voters at the final revision of the lists.

Q.—What publication did you make, if any, of the letter sent by Colonel Campbell, and whether before or after the final revision of the registration lists?

A.—My impression is, that the letter was published after the final revision of the lists. It was published in the *Culpeper Observer*, at Culpeper Court House, Virginia, before the election for delegates to the Convention. I do not remember how long before the election.

This closed the testimony of Captain MacNulty.

EXHIBIT H.

OATH OF AMNESTY OF MR. F. MAUZY.

OFFICE OF PROVOST MARSHAL,

CULPEPER C. H., VA., June 21st, 1865.

I, F. Mauzy, of Culpeper county, do solemnly swear or affirm, in presence of Almighty God, that I will henceforth faithfully support and defend the Constitution of the United States, and the union of the States thereunder; and that I will, in like manner, abide by and faithfully support all laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves, so help me God.

F. MAUZY.

Sworn and subscribed to before me, this 21st day of June, 1865, at Culpeper C. H., Va.

CHARLES KIRKHAM,
Captain and Provost Marshal.

EXHIBIT I.

LETTER FROM GEN. SCHOFIELD TO MR. NICKERSON.

HEADQUARTERS FIRST MILITARY DISTRICT,
STATE OF VIRGINIA,
RICHMOND, VA., December 14th, 1867.

MR. S. M. NICKERSON,

Chairman pro tem. Committee on Elections,

Virginia State Convention, Richmond, Va :

SIR:

In response to the resolution of the Committee on Elections, this day presented at these headquarters, I am directed by the Commanding General to transmit the enclosed copy of a letter from the President of the Board of Registration of Culpeper county, Virginia, which comprises all the information in reference to the eligibility of members in his possession.

Very respectfully,

Your obedient servant,

J. A. CAMPBELL,

Brevet Lieutenant Colonel and A. A. A. G.

EXHIBIT K.

COPY OF LETTER OF CAPT. MACNULTY, REGISTERING OFFICER
OF CULPEPER COUNTY.OFFICE PRESIDENT OF THE BOARD OF REGISTRATION,
CULPEPER COUNTY, VIRGINIA.

CULPEPER COURT HOUSE, VA., October 7, 1867.

S. F. CHALFIN,

Assistant Adjutant General First Military District of Virginia, Richmond, Va.:

SIR:

I have the honor at the urgent request of many of the citizens of Culpeper county, Virginia, (of different political opinions) to submit to the Commanding General the following case of Mr. Fayette Mauzy, in reference to his eligibility as a candidate to the forthcoming Convention.

The political party known as the Conservative party, have nominated Mr. Mauzy as their candidate for the Convention, in opposition to Mr. John M. Botts, the Republican candidate. Mr. Mauzy was rejected at the second session of the Board of Registration for this county, in accordance with the provisions of General Order No. 47, Headquarters First Military District, State of Virginia, dated Richmond, Virginia, July 26, 1867, and his name was transferred to the list of persons rejected, and a return of the same was made to Headquarters First Military District.

Mr. Mauzy was clerk of the County Court prior to the war, and held said office during the war, also voted for the ratification of the ordinance of secession. He is at present the clerk of the County Court of Culpeper, Virginia.

I have seen Mr. Mauzy, and he says, "It is clear to his mind, that the last Act of Congress on the subject, of duty, only further limits and restricts the right to register and vote, and does not at all touch the qualification to hold office as a delegate, which depends on a proper construction of the proposed 14th Constitutional amendment. He also is of the opinion that the General Commanding will not take cognizance of the question of eligibility, but will leave that to be decided by the Convention."

As there have been many requests for information made to me about this matter, I thought I would submit it to the consideration of the General Commanding, for the purpose of satisfying the numerous demands made upon me by the citizens.

I am, sir, very respectfully,

Your ob't servant,

(Signed)

W. AUGS. MACNULTY,
*Brevet Capt. and Pres't Board of Registration,
Culpeper County, Virginia.*

HEADQUARTERS FIRST MILITARY DISTRICT,
Richmond, Va., December 14, 1867.

Official Copy :

J. A. CAMPBELL,
Brevet. Lieut. Col. U. S. A., A. A. A. G.

EXHIBIT L.

EXTRACT FROM THE PRINTED REGISTRATION NOTICE OF CUL-
PEPER COUNTY, ISSUED FOR THE SECOND SESSION OF THE
BOARD OF REGISTRATION OF THAT COUNTY, AUGUST 5, 1867.

* * * * *

All those who registered at the first session of the Board, who are disqualified from voting by reason of having held any of the offices enumerated in the extract from General Order No. 47, Headquarters First Military District, are directed to appear before the Board at the time and place mentioned above, that a correct revision of the lists may be made.

* * * * *

EXHIBIT M.

PROTEST OF FAYETTE MAUZY, DELEGATE ELECT FROM CUL-
PEPER COUNTY.

RICHMOND, December 19th, 1867.

Chairman of the Committee on Elections, &c. :

SIR :

Having appeared before your committee in obedience to the summons received from your Clerk, Henry Richardson, Esq., bearing date the 17th inst., I beg leave to enter this my solemn protest against the consideration by your committee of any and all matters concerning and touching my right to a seat in the body known as "the Convention of Virginia," now in session in this city, and my privileges as such.

This protest is entered for the following reasons, to wit :

First. Because I hold the proper and formal certificate of election of the officer commanding the First Military District, and have been declared entitled to my seat by the report of a special committee, appointed by the aforesaid Convention, received and adopted. Which adoption and reception by the body, under the rules governing its proceedings, is binding and final.

Secondly. Because no contestant has appeared against me, and therefore no issue is made as to my rights and privileges in the premises to be settled, determined or passed upon by the committee.

Thirdly. Because *no legal* evidence has been adduced to maintain the allegations against me, which allegations have been wholly denied, and good and sufficient proof thereof demanded.

And, *fourthly.* Because whatever may have been my past *status* and disabilities, all were wiped out and obliterated by the full pardon of his Excellency Andrew Johnson, President of the United States, contained in his proclamation of the 29th day of May, 1865, long before the passage of the act of March 2d, 1867, and the several acts of March 23d, 1867, and of July 19th, 1867, supplemental and amendatory thereto, by the Congress of the United States.

For these and other reasons, this protestant respectfully submits that the Committee upon Elections has no jurisdiction over him, nor can they call in question his privileges and rights as a member of the said Convention aforesaid, and asks that this protest may be considered by the committee, made a part of its records, and reported by them to the Convention.

Respectfully, &c.

F. MAUZY.

EXHIBIT N.

ENDORSED COPY OF THE ELECTION CERTIFICATE OF THE
REGISTERING OFFICERS OF CULPEPER COUNTY.

HEADQUARTERS FIRST MILITARY DISTRICT,

STATE OF VIRGINIA.

RICHMOND, VA., January 8th, 1868.

Mr. CHAS. H. PORTER,

*Chairman Committee on Privileges and Elections,**Virginia State Convention, Richmond, Va. :*

SIR :

In compliance with request contained in your letter of the 7th instant, for names of persons voted for and number of votes cast for each candidate for delegate to the Convention in Culpeper county, I am directed by the commanding General to forward you the enclosed copy of election certificate of the Registering Officers of Culpeper county, giving the desired information.

Very respectfully, your obedient servant,

J. A. CAMPBELL,

Brev't Lieutenant-Colonel and A. A. A. G.

We do certify on honor that, at the election held in Culpeper county, Virginia, on the 22d day of October, 1867, seventeen (17) qualified white electors voted "for a Convention," and eight hundred and forty-nine (849) qualified white electors voted "against a Convention," and that eight hundred and nine (809) qualified colored electors voted "for a Convention" and seventeen (17) qualified colored electors voted "against a Convention." Also that eight hundred and fifty-eight (858) qualified white electors and eighteen (18) qualified colored electors voted for Fayette Mauzy as a delegate to the Convention; and that eight (8) qualified white electors and eight hundred and eight (808) qualified colored electors voted for J. M. Botts, as a delegate to the Convention; and that Fayette Mauzy having received a plurality of all the votes cast at the election, is the choice of the electors of this county for a delegate to the Convention.

(Signed,)

BREV'T CAPT. W. A. MACNULTY,

President of the Board.

(Signed,)

FRED. LEAVER,

Registering Officer of the County.

A true copy :

J. A. CAMPBELL,

Brevt. Lieut. Colonel U. S. A. and A. A. A. G.

EXCEPTIONS

TO THE REPORT OF THE COMMITTEE OF PRIVILEGES AND ELECTIONS, IN THE CASE OF F. MAUZY, DELEGATE FROM THE CCUNTY OF CULPEPER.

The said delegate excepts to the report as follows:

1st. Because the ground of ineligibility in his case being treason against the United States, (see the definition of treason in the Constitution,) *less* evidence of said offence has been taken and acted on than the record of his conviction before a jury of twelve men.

2d. Because the committee has ignored the amnesty proclamation of the President, of the 29th May, 1865, the benefit of which the said delegate is entitled to, as appears by his certificate filed with the committee; whereby, even if it could be shown that he committed treason against the United States, the said delegate was completely and forever purged of said offence, and relieved from all penalties and forfeitures arising therefrom.

3d. Because the only overt act of treason attempted to be proved against him being that he voted at the polls to ratify the ordinance of secession, the said overt act is not *alleged* and *proved* to have been committed *voluntarily* and with a *treasonable* intent, if committed at all.

4th. Because the said overt act is not established, according to law, nor before a lawful tribunal of twelve men, unanimous in their verdict: any less proof is rebutted by the legal presumption of innocence.

5th. Because the said overt act, if properly proved, does not amount to treason, for, by the Constitution of the United States and the Bill of Rights of Virginia, all elections are *free*, and, consequently, no man shall be called in question for any vote at the polls.

It might not be improper to add that General Schofield, after objections made to him in this very case, and after entertaining jurisdiction thereof by giving an opinion adverse at first, afterwards gave this delegate a regular certificate of his election, which was so reported to the Convention by the Committee on Credentials, and adopted without objection.

F. MAUZY.

COMMUNICATION
FROM
GENERAL SCHOFIELD
IN RELATION TO THE
RESIGNATION OF MR. R. S. BEASLEY.

HEADQUARTERS FIRST MILITARY DISTRICT,
STATE OF VIRGINIA, Richmond, Va., Jan. 13, 1868.

MR. GEORGE RYE,

Secretary Virginia State Convention, Richmond, Va. :

SIR :

I am directed by the Commanding General to acknowledge the receipt of your communication of this date, embodying a resolution of the Convention adopted January 11, 1868, submitting a copy of a report and resolution adopted December 18, 1867, which latter resolution accepts the resignation of Mr. R. S. Beasley, delegate elect from the counties of Madison and Greenè, and requests the Commanding General "to take such steps as may be legal in the premises to supply the vacancy."

In reply, I am directed to say that there is no provision of law for filling vacancies in the Convention, unless a discretionary power to order special elections for that purpose be inferred from the general tenor of the acts of Congress.

Six weeks have now elapsed since the assembling of the Convention, and nearly four weeks since the adoption of the resolution to-day received. It would be necessary to give at least thirty days' notice of an election, if one were ordered.

In view of the facts above referred to, the Commanding General does not deem it expedient to take any action in the premises.

Very respectfully,

Your obedient servant,

J. A. CAMPBELL,

2d Lieut. 5th Art'y, Brevet Lieut. Col. U. S. A., A. A. A. G.

REPORT OF COMMITTEE

ON

TAXATION AND FINANCE.

We, your Committee on Taxation and Finance, to whom was referred the subject of Taxation and Finance, and who were instructed to report a constitutional provision respecting the same, beg leave to submit the following report :

ARTICLE I.

Taxation shall be equal and uniform throughout the State, and all property, both real and personal, shall be taxed in proportion to its value, to be ascertained as prescribed by law. No one species of property, from which a tax may be collected, shall be taxed higher than any other species of property of equal value.

ARTICLE II.

No tax shall be levied upon any citizen of this State for taking or catching any of the natural productions of the waters thereof; nor shall any tonnage tax be imposed on vessels engaged in transporting said natural productions. But oysters removed from their natural bed and planted, may be taxed as a portion of the personal property of the owner.

ARTICLE III.

The General Assembly may levy a tax on incomes in excess of \$1,000 per annum, and upon the following licenses, viz : the sale of ardent spirits, lottery tickets and lottery policies, theatrical and circus companies, menageries, jugglers, itinerant peddlers, and all other shows and exhibitions for which an entrance fee is required, commission merchants, persons selling by sample, or all other business which cannot be reached by the *ad valorem* system.

The capital invested in all business operations shall be assessed and taxed as other property.

ARTICLE IV.

The General Assembly may levy a poll tax, not exceeding five hundred dollars assessment, on each male citizen who has attained the age of twenty-one years, which shall be applied exclusively in aid of the public school fund.

ARTICLE V.

The General Assembly shall provide for a re-assessment of the real estate of this State in the year 1869, or as soon thereafter as practicable, and on every tenth year thereafter; provided, in making such assessment, no land shall be valued at less than one dollar per acre.

ARTICLE VI.

No debt shall be contracted by this State except to meet casual deficits in the revenue to redeem a previous liability of the State, to suppress insurrection, repel invasion, or defend the State in time of war.

ARTICLE VII.

The General Assembly shall provide, by law, a sinking fund to be applied solely to the payment and extinguishment of the principal of the State debt, which sinking fund shall be continued until the extinguishment of such State debt; and every law hereafter enacted by the General Assembly, creating a debt or authorizing a loan, shall provide a sinking fund for the payment of the same.

ARTICLE VIII.

The unfunded debt shall not be funded or redeemed at a value exceeding that established by law at the time said debt was contracted, nor shall any discrimination hereafter be made in paying the interest on State bonds, which shall give a higher actual value to bonds held in foreign countries, over the same class of bonds held in this country.

ARTICLE IX.

No money shall be paid out of the State Treasury except in pursuance of appropriations made by law.

ARTICLE X.

The credit of the State shall not be granted to, or in aid of, any person, association or corporation.

ARTICLE XI.

No scrip, certificate or other evidence of State indebtedness shall be issued except for the redemption of stock previously issued, or for such debts as are expressly authorized in this constitution.

ARTICLE XII.

The State shall not subscribe to, or become interested in, the stock of any company, association or corporation.

ARTICLE XIII.

The State shall not be a party to, or become interested in, any work of internal improvement, nor engage in carrying on any such work, otherwise than in the expenditure of grants to the State of land, or other property.

ARTICLE XIV.

Every law which imposes, continues, or revives a tax, shall distinctly state the tax, and the object to which it is to be applied, and it shall not be sufficient to refer to any other law, to fix such tax or object.

ARTICLE XV.

The State shall not assume any indebtedness of a county, borough or city, nor lend its credit to the same.

ARTICLE XVI.

A full account of the State indebtedness, and an accurate statement of receipts and expenditures of the public money, shall be attached to and published with its laws, passed at every regular session of the General Assembly.

REPORT
OF THE
COMMITTEE OF THE WHOLE
ON THE
PREAMBLE, BILL OF RIGHTS
AND
DIVISION OF THE POWERS OF GOVERNMENT.

The committee to whom were referred the Preamble, Bill of Rights and Division of the Powers of Government, have had the subjects to them referred under consideration, and have, in performance of the duties devolved upon them, agreed to recommend to the Convention the adoption of the following Preamble, Bill of Rights, and Articles one and two of the Constitution :

A DECLARATION OF RIGHTS, *made by the representatives of the good people of Virginia, assembled in full and free Convention, which rights do pertain to them and their posterity as the basis and foundation of government.*

I. That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity ; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

II. That this State shall ever remain a member of the United States of America, and that the people thereof are part of the American nation, and that all attempts, from whatever source or upon whatever pretext, to dissolve said Union or to sever said nation, are unauthorized, and ought to be resisted with the whole power of the State.

III. That the Constitution of the United States and the laws of Congress passed in pursuance thereof, constitute the supreme law of the land, to which paramount allegiance and obedience are due from every citizen, anything in the constitution, ordinances or laws of any State to the contrary notwithstanding.

IV. That all power is vested in, and consequently derived from, the people ; that magistrates are their trustees and servants, and at all times amenable to them.

V. That government is, or ought to be, instituted for the common benefit, protection and security of the people, nation or community; of all the various modes and forms of government, that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of maladministration; and that, when any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable and indefeasible right to reform, alter or abolish it, in such manner as shall be judged most conducive to the public weal.

VI. That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services; which, not being descendible, neither ought the offices of magistrate, legislator or judge to be hereditary.

VII. That the legislative, executive and judicial powers should be separate and distinct; and that the members thereof may be restrained from oppression, by feeling and participating the burthens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain and regular elections, in which all, or any part of the former members, to be again eligible or ineligible, as the laws shall direct.

VIII. That all elections ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property for public uses, without their own consent, or that of their representatives so elected, nor bound by any law to which they have not, in like manner, assented, for the public good.

IX. That all power of suspending laws, or the execution of laws, by any authority, without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

X. That, in all capital or criminal prosecutions, a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favor, and to a speedy trial by an impartial jury of twelve men of his vicinage, without whose unanimous consent he cannot be found guilty; nor can he be compelled to give evidence against himself; that no man be deprived of his liberty, except by the law of the land or the judgment of his peers.

XI. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

XII. That general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

XIII. That, in controversies respecting property, and in suits between man and man, the trial by jury is preferable to any other, and ought to be held sacred.

XIV. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments, and any citizen may

speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

XV. That a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural and safe defence of a free State; that standing armies, in time of peace, should be avoided as dangerous to liberty, and that in all cases the military should be under strict subordination to, and governed by, the civil power.

XVI. That the people have a right to uniform government; and, therefore, that no government separate from, or independent of, the government of Virginia, ought to be erected or established within the limits thereof.

XVII. That no free government, or the blessings of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality and virtue, and by a frequent recurrence to fundamental principles.

XVIII. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and, therefore, all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love and charity towards each other.

XIX. That neither slavery nor involuntary servitude, except as lawful imprisonment may constitute such, shall exist within this State.

XX. The rights enumerated in this Bill of Rights shall not be construed to limit other rights of the people not therein expressed.

AMENDMENT PROPOSED BY MR. HAWXHURST AS A SUBSTITUTE
FOR ARTICLE VIII.

That all elections ought to be free; and that all men (not disqualified by crime, insanity or idiocy) have the inherent right of suffrage, and cannot be taxed or deprived of their property for public uses without their own consent or that of their representatives, so elected, nor bound by any law to which they have in like manner assented, for the public good.

CONSTITUTION OF VIRGINIA.

Whereas, the delegates and representatives of the good people of Virginia, in convention assembled, on the 29th day of June, in the year of our Lord one thousand seven hundred and seventy-six—reciting and declaring, that whereas George the Third, King of Great Britain and Ireland and Elector of Hanover, before that time entrusted with the exercise of the kingly office in the government of Virginia, had endeavored to pervert the same into a detestable and insupportable tyranny, by putting his negative on laws the most wholesome and necessary for the public good; by denying his governors permission to pass laws of immediate and pressing importance, unless suspended in their operation for his assent, and when so suspended, neglecting to attend to them for many years; by refusing to pass certain other laws, unless the persons to be benefited by them would relinquish the inestimable right of representation in the legislature; by dissolving legislative assemblies repeatedly and continually, for opposing with manly firmness his invasions of the rights of the people; when dissolved, by refusing to call others for a long space of time, thereby leaving the political system without any legislative head; by endeavoring to prevent the population of our country, and for that purpose obstructing the laws for the naturalization of foreigners; by keeping among us, in time of peace, standing armies and ships of war; by affecting to render the military independent of, and superior to, the civil power; by combining with others to subject us to a foreign jurisdiction, giving his assent to their pretended acts of legislation, for quartering large bodies of armed troops among us, for cutting off our trade with all parts of the world, for imposing taxes on us without our consent, for depriving us of the benefits of the trial by jury, for transporting us beyond seas for trial for pretended offences, for suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever; by plundering our seas, ravaging our coasts, burning our towns, and destroying the lives of our people; by inciting insurrections of our fellow-subjects with the allurements of forfeiture and confiscation; by prompting our negroes to rise in arms among us—those very negroes whom, by an inhuman use of his negative, he had refused us permission to exclude by law; by endeavoring to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions of existence; by transporting hither a large army of foreign mercenaries to complete the work of death, desolation and tyranny, then already begun with circumstances of cruelty and perfidy unworthy the head of a civilized nation; by answering our repeated petitions for redress with a repetition of injuries; and finally, by abandoning the helm of government, and declaring us out of his allegiance and protection; by which several acts of misrule, the government of this country, as before exercised under the crown of Great Britain, was totally dissolved—did, therefore, having maturely considered the premises, and viewing with great concern the deplorable condition to which this once happy country would be reduced, unless some regular,

adequate mode of civil policy should be speedily adopted, and in compliance with the recommendation of the general congress, ordain and declare a form of government of Virginia :

And whereas, a convention held on the first Monday in October, in the year one thousand eight hundred and twenty-nine, did propose to the people of the Commonwealth an amended constitution or form of government, which was ratified by them :

And whereas, the General Assembly of Virginia, by an act passed on the fourth of March, in the year one thousand eight hundred and fifty, did provide for the election, by the people, of delegates to meet in general convention, to consider, discuss and propose a new constitution, or alterations and amendments to the existing constitution of this Commonwealth ; and by an act passed on the thirteenth of March, in the year one thousand eight hundred and fifty-one, did further provide for submitting the same to the people for ratification or rejection ; and the same having been submitted accordingly, was ratified by them :

And whereas, the General Assembly of Virginia, by an act passed on the twenty-first day of December, in the year one thousand eight hundred and sixty-three, did provide for the election, by the people, of delegates to meet in general convention to consider, discuss and adopt alterations and amendments to the existing constitution of this Commonwealth, the delegates so assembled did, therefore, having maturely considered the premises, adopt a revised and amended constitution as the form of government of Virginia :

And whereas, the Congress of the United States did, by an act passed on the second day of March, in the year one thousand eight hundred and sixty-seven, and entitled "An act to provide for the more efficient government of the rebel States," and by acts supplementary thereto, passed on the twenty-third day of March and the nineteenth day of July, in the year one thousand eight hundred and sixty-seven, provide for the election, by the people of Virginia, qualified to vote under the provisions of said acts, of delegates to meet in convention to frame a constitution, or form of government for Virginia, in conformity with said acts ; and by the same acts did further provide for the submitting of such constitution to the qualified voters for ratification or rejection :

We, therefore, the delegates of the good people of Virginia, elected and in Convention assembled, in pursuance of said acts, invoking the favor and guidance of Almighty God, do propose to the people the following Constitution and form of government for this Commonwealth :

ARTICLE I.

BILL OF RIGHTS.

The declaration of the political rights and privileges of the inhabitants of this State is hereby declared to be a part of the Constitution of this Commonwealth, and shall not be violated on any pretence whatever.

ARTICLE II.

DIVISION OF POWERS.

The legislative, executive and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to either of the others ; nor shall any person exercise the powers of more than one of them at the same time, except justices of the peace.

REPORT OF COMMITTEE

ON

The Basis of Representation and Apportionment.

The Committee on the Basis of Representation and Apportionment beg leave to report, that they have had under consideration various matters appertaining to their duties, and have prepared tables and statements, which the committee deem necessary for themselves and the Convention, in order to arrive at satisfactory conclusions, and respectfully ask that they be printed, to wit :

No. 1—Statement showing the number of white and colored persons, above the age of twenty-one years, listed for taxation in 1866.

No. 2—Statement of the registered voters under the Reconstruction Acts, and how the apportionment would stand on that basis.

No. 3—Statement of the population of 1860, by counties, showing how the apportionment would stand on that basis.

No. 4—Statement showing the number of votes cast in the Presidential election in 1860, and the rate per centum of said votes as compared with the entire population in 1860.

No. 5—Statement showing the value of real estate in 1860, and the personal property in 1866.

The number of delegates marked opposite the counties and cities are put there merely for the purpose of illustration, and on the assumption that the House of delegates shall consist of one hundred and five members.

JOHN HAWKHURST, *Chairman.*

No. 1.

Statement showing the Number of White and Colored Persons, above the age of twenty-one years, listed for taxation in 1866.

COUNTIES, &c.	1866.		1867.		REMARKS.
	White.	Colored.	White.	Colored.	
Accomac.....	1,428	489	Not returned.
Albemarle.....	2,585	2,527	2,637	2,467	
Alexandria.....	1,859	746	1,869	872	
Alleghany.....	613	71	660	127	Staunton not included.
Amelia.....	618	1,315	646	1,529	
Amherst.....	1,661	1,319	1,672	1,444	
Appomattox.....	952	862	842	804	
Augusta.....	3,663	879	3,712	844	
Bath.....	553	153	567	152	
Bedford.....	2,766	1,940	2,839	2,109	
Bland.....	680	45	684	37	
Botetourt.....	1,631	476	1,597	472	
Brunswick.....	1,027	1,682	1,070	1,626	
Buckingham.....	1,231	1,703	1,247	1,690	Lynchburg not included.
Buchanan.....	473	5	517	4	
Campbell.....	1,684	1,376	1,863	1,591	
Caroline.....	1,486	1,210	1,519	1,496	
Carroll.....	1,408	51	1,459	41	
Charles City.....	410	534	384	611	
Charlotte.....	1,088	2,040	1,004	2,017	
Chesterfield.....	1,708	1,273	1,553	1,564	
Clarke.....	801	262	928	376	
Craig.....	503	57	497	54	
Culpeper.....	1,072	671	1,093	811	Petersburg not included.
Cumberland.....	617	1,188	591	1,167	
Dinwiddie.....	933	1,517	981	1,441	
Elizabeth City.....	471	997	430	872	
Essex.....	650	734	640	906	
Fairfax.....	1,509	323	1,699	1,134	
Fauquier.....	2,276	1,006	2,859	1,239	
Floyd.....	1,316	128	445	45	
Fluvanna.....	1,108	957	.....	.....
Franklin.....	2,475	1,001	2,449	982	
Frederick.....	1,807	169	1,871	185	Winchester not included.
Giles.....	981	125	1,017	131	
Gloucester.....	960	689	946	703	
Goochland.....	801	1,127	802	1,446	
Grayson.....	1,404	60	1,317	37	
Greene.....	652	231	659	243	
Greensville.....	402	638	384	675	
Halifax.....	2,307	3,937	2,388	2,950	
Hanover.....	1,599	1,365	1,644	1,508	
Henrico.....	2,657	1,278	2,573	1,288	
Henry.....	1,195	1,028	1,245	1,082	Richmond city not inclu'd.
Highland.....	787	67	786	60	

Statement No. 1—Continued.

COUNTIES, &c.	1866.		1867.		REMARKS.
	White.	Colored.	White.	Colored.	
Isle of Wight.....	962	566	1,019	743	Williamsburg not included.
James City.....	236	324	239	412	
King George.....	543	308	548	379	
King & Queen.....	777	551	712	752	
King William.....	495	512	535	719	
Lancaster.....	426	309	424	300	
Lee.....	1,890	113	1,794	111	
Loudoun.....	2,971	658	3,236	968	
Louisa.....	1,297	1,219	1,336	1,432	
Lunenburg.....	960	1,137	997	1,149	
Madison.....	989	524	979	548	
Mathews.....	828	303	897	430	
Mecklenburg.....	1,494	2,440	1,502	2,521	
Middlesex.....	469	338	468	357	
Montgomery.....	1,637	303	1,470	293	Norfolk city not included.
Nansemond.....	1,105	799	1,140	896	
Nelson.....	1,082	959	1,197	958	
New Kent.....	470	375	491	464	
Norfolk county....	1,173	856	1,319	1,742	
Northampton.....	701	241	698	314	
Northumberland..	773	338	727	392	
Nottoway.....	523	1,224	532	1,287	
Orange.....	982	909	1,022	950	
Page.....	1,344	156	1,404	183	
Patrick.....	1,218	315	1,326	268	
Pittsylvania.....	2,695	2,128	2,694	2,309	Danville not included.
Powhatan.....	583	983	577	1,009	
Prince Edward....	877	1,131	880	1,401	
Prince George....	465	793	598	761	
Princess Anne....	1,018	816	1,029	898	
Prince William....	1,047	244	1,123	312	
Pulaski.....	794	274	806	325	
Rappahannock....	1,151	496	1,168	477	
Richmond.....	611	310	630	391	
Roanoke.....	1,216	589	Not returned.
Rockbridge.....	2,394	812	2,426	823	
Rockingham.....	3,743	354	3,765	394	
Russell.....	1,675	168	1,699	184	
Scott.....	2,113	98	2,131	104	
Shenandoah.....	2,726	115	2,754	179	
Smyth.....	1,147	222	1,530	2,221	
Southampton.....	1,166	1,168	1,669	1,359	
Spotsylvania.....	839	461	859	995	Fredericksb'g not included.
Stafford.....	951	160	1,002	223	
Surry.....	524	520	542	559	
Sussex.....	685	1,030	709	1,063	
Tazewell.....	1,496	167	1,508	214	
Warren.....	765	175	819	197	
Warwick.....	145	190	143	273	
Washington.....	2,797	418	2,827	430	
Westmoreland....	702	499	715	582	
Wise.....	680	7	720	10	
Wythe.....	1,168	362	1,711	363	
York.....	458	1,023	519	834	
Danville.....	298	326	363	359	

Statement No. 1—Continued.

COUNTIES, &c.	1866.		1867.		REMARKS.
	White.	Colored.	White.	Colored	
Norfolk city.....	1,600	232	1,664	397	
Petersburg.....	2,087	2,254	1,945	2,575	
Portsmouth.....	1,602	460	1,518	784	
Richmond city....	4,316	1,292	4,078	2,075	
Fredericksburg....	469	154	591	193	
Lynchburg.....	753	371	967	941	
Williamsburg.....	146	77	140	80	
Staunton.....	504	177	483	196	
Winchester.....	608	170	654	208	
	132,456	77,204	122,902	84,148	

AUDITOR'S OFFICE OF VIRGINIA,
Richmond, Dec. 17, 1867.

The foregoing is a true statement, showing the number of white and colored persons, above the age of twenty-one years, listed for taxation in the year 1866, and a like statement for the year 1867, as to those counties, &c., from which the books of the commissioners of the revenue have been received.

WM. F. TAYLOR, *Auditor.*

No. 2.

Statement of the Registered Voters under the Reconstruction Acts, and how the apportionment would stand on that basis.

COUNTIES AND CITIES.	No. of delegates.	Total registered 1867.	No. short of amt. necessary for a delegate.	Excess above amt. necessary for delegates.
Richmond City.....	5	11,666	.....	911
Norfolk County and Portsmouth	2	6,019	.....	1,717
Albemarle.....	2	5,069	.....	767
Augusta.....	2	4,941	.....	539
Bedford.....	2	4,518	.....	216
Campbell.....	2	5,554	.....	1,252
Halifax.....	2	5,382	.....	1,080
Loudoun.....	1	3,806	.....	1,655
Mecklenburg.....	1	4,118	.....	1,967
Pittsylvania.....	2	6,302	.....	2,000
Rockingham.....	1	3,312	.....	1,161
Norfolk City.....	1	3,959	.....	1,808
Petersburg City.....	1	4,193	.....	2,042
Alexandria.....	1	3,524	.....	1,373
Amelia.....	.....	1,986	165	
Amherst.....	.....	2,886	735	
Botetourt.....	.....	2,082	69	
Brunswick.....	1	2,508	.....	357
Buckingham.....	1	2,871	.....	720
Charlotte.....	1	2,993	.....	842
Culpeper.....	.....	1,901	250	
Cumberland.....	.....	1,866	284	
Fairfax.....	1	2,439	.....	288
Fluvanna.....	.....	1,854	297	
Frederick.....	1	2,633	.....	482
Goochland.....	1	2,181	.....	30
Hanover.....	1	3,060	.....	909
Henrico.....	1	3,108	.....	957
Henry.....	.....	2,023	128	
Louisa.....	1	2,883	.....	732
Lunenburg.....	.....	1,945	206	
Montgomery.....	.....	2,113	38	
Nansemond.....	1	2,238	.....	87
Nelson.....	1	2,511	.....	360
Nottoway.....	.....	1,929	222	
Orange.....	.....	1,980	171	
Princess Anne.....	.....	1,801	350	
Southampton.....	1	2,397	.....	246
Wythe.....	.....	2,061	110	
Chesterfield.....	1	3,889	.....	1,738
Powhatan.....	.....	1,624	527	
Caroline.....	1	2,719	.....	568
King George.....	.....	895	1,256	
Spotsylvania.....	1	2,336	.....	185
Accomac.....	1	3,523	.....	1,372
Northampton.....	.....	1,560	591	
Bath.....	.....	529	1,622	
Highland.....	.....	660	1,491	

Statement No. 2—Continued.

COUNTIES AND CITIES.	No. of delegates.	Total registered 1867.	No short of amt. necessary for a delegate.	Excess above amt. necessary for delegates.
Rockbridge	1	3,222	.....	1,071
Carroll	1,475	676	
Floyd	1,549	602	
Grayson	1,417	734	
Fauquier	1	3,188	.....	1,037
Rappahannock	1,486	665	
Northumberland	1,099	1,052	
Lancaster	849	1,202	
Richmond	1,080	1,071	
Westmoreland	1,288	863	
Patrick	1,523	628	
Franklin	1	3,200	.....	1,049
Prince Edward	2,428	.....	277
Appomattox	1,662	489	
Prince George	1,630	521	
Dinwiddie	1	2,311	.....	160
Lee	1,607	544	
Scott	1,994	157	
Wise	663	1,488	
Page	1,438	713	
Shenandoah	1	2,344	.....	193
Smythe	1,602	549	
Washington	1	3,116	.....	965
Alleghany	577	1,574	
Craig	495	1,656	
Roanoke	1,680	471	
Charles City	967	1,184	
New Kent	824	1,327	
Clarke	1,141	1,010	
Warren	853	1,298	
Elizabeth City	1,946	205	
Warwick	426	1,725	
Gloucester	1,729	322	
Mathews	985	1,166	
Isle of Wight	1,527	624	
Surry	1,029	1,122	
King & Queen	1,593	558	
King William	1,201	950	
Madison	1,407	744	
Greene	819	1,332	
Middlesex	797	1,354	
Essex	1,700	451	
Pulaski	1,059	1,092	
Giles	968	1,183	
Russell	1,639	512	
Buchanan	468	1,683	
Stafford	1,100	1,051	
Prince William	1,265	896	
Greensville	1,023	1,128	
Sussex	1,639	512	
Bland	743	1,408	
Tazewell	1,584	567	
James City	718	1,433	
York	1,613	538	

No. 3.

Statement of the Population of 1860, by Counties, showing how the apportionment would stand on that basis.

COUNTIES AND CITIES.	No. of dele- gates.	Total popula- tion 1860.	No. short of an't neces- sary for a delegate.	Excess above the an't ne- cessary for a delegate.
Augusta.....	2	23,844	.....	1,906
Rockingham.....	2	23,408	.....	2,470
City of Richmond.....	3	37,973	.....	6,566
Accomac.....	1	18,586	.....	8,117
Albemarle.....	2	26,625	.....	5,687
Bedford.....	2	25,068	.....	4,130
Campbell.....	1	19,286	.....	8,817
Fauquier.....	2	22,704	.....	1,766
Franklin.....	1	20,098	.....	9,628
Frederick.....	1	12,153	.....	1,684
Halifax.....	2	26,121	.....	5,183
Henrico.....	2	23,643	.....	2,705
Jefferson.....	1	14,575	.....	1,106
Loudoun.....	2	21,772	.....	834
Norfolk.....	.....	10,152	.....	317
Pittsylvania.....	2	27,656	.....	6,718
Rockbridge.....	1	17,250	.....	6,581
Scott.....	1	12,072	.....	1,603
Shenandoah.....	1	13,716	.....	3,247
Washington.....	1	16,893	.....	6,424
Dinwiddie.....	1	11,920	.....	1,551
City of Petersburg.....	.....	18,278	.....	7,809
Alleghany.....	.....	6,765	3,704	.....
Amherst.....	1	14,316	.....	3,858
Botetourt.....	1	11,516	.....	1,057
Caroline.....	1	18,465	.....	7,996
Carroll.....	.....	8,012	2,457	.....
Chesterfield.....	1	19,015	.....	8,546
Floyd.....	.....	8,236	2,233	.....
Giles.....	1	12,210	.....	1,541
Grayson.....	.....	8,252	.....	2,217
Hanover.....	1	17,225	.....	6,756
Henry.....	1	12,105	.....	1,636
Lee.....	1	11,032	.....	563
Louisa.....	1	16,698	.....	6,229
Mecklenburg.....	1	20,096	.....	9,627
Montgomery.....	1	10,615	.....	146
Nansemond.....	1	13,693	.....	3,224
Nelson.....	1	13,015	.....	2,546
Northampton.....	.....	7,832	2,637	.....
Page.....	.....	6,165	4,294	.....
Patrick.....	.....	9,359	1,144	.....
Prince William.....	.....	8,565	1,904	.....
Princess Anne.....	.....	7,714	2,755	.....
Rappahannock.....	.....	8,850	1,619	.....
Russell.....	.....	10,180	289	.....
Smyth.....	.....	8,952	1,517	.....
Southampton.....	1	12,916	.....	2,447
Spotsylvania.....	1	11,048	.....	579
Tazewell.....	.....	9,920	549	.....

Statement No. 3—Continued.

COUNTIES AND CITIES.	No. of dele- gates.	Total popula- tion 1861.	No. short of amt neces- sary for a delegate.	Excess above the amt ne- cessary for a delegate.
Wythe.....	1	12,305	.....	1,836
Appomattox.....	.....	8,889	1,580	.....
Prince Edward.....	1	11,844	.....	1,575
Amelia.....	1	10,753	.....	284
Powhatan.....	.....	8,391	2,078	.....
Nottoway.....	.....	8,836	1,633	.....
Bath.....	.....	3,676	6,793	.....
Highland.....	.....	4,319	6,150	.....
Brunswick.....	1	14,811	.....	4,342
Greensville.....	.....	6,374	4,095	.....
Bland.*.....	.....	.....	.....	.....
Pulaski.....	.....	5,416	5,953	.....
Buchanan.....	.....	2,793	7,676	.....
Wise.....	.....	4,508	5,961	.....
Buckingham.....	1	15,212	.....	4,743
Cumberland.....	.....	9,961	598	.....
Charlotte.....	1	14,469	.....	4,000
Lunenburg.....	1	11,984	.....	1,515
Charles City.....	.....	5,609	4,860	.....
James City.....	.....	4,176	6,293	.....
New Kent.....	.....	5,884	4,585	.....
Clarke.....	.....	7,146	3,323	.....
Warren.....	.....	6,442	4,027	.....
Craig.....	.....	3,553	6,916	.....
Roanoke.....	.....	8,048	2,421	.....
Culpeper.....	1	12,064	.....	1,595
Orange.....	1	10,706	.....	237
Elizabeth City.....	.....	5,798	4,671	.....
York.....	.....	4,949	5,520	.....
Warwick.....	.....	1,740	8,729	.....
City of Williamsburg.....	.....	1,612	8,857	.....
Essex.....	1	10,469	.....	.....
Middlesex.....	.....	4,364	6,105	.....
Fluvanna.....	.....	10,353	116	.....
Goochland.....	1	10,656	.....	187
Gloucester.....	1	10,956	.....	487
Mathews.....	.....	7,091	3,378	.....
Greene.....	.....	5,025	5,444	.....
Madison.....	.....	8,854	1,615	.....
Isle of Wight.....	.....	9,977	492	.....
Surry.....	.....	6,133	4,336	.....
King George.....	.....	6,570	3,899	.....
Stafford.....	.....	8,555	1,914	.....
King & Queen.....	.....	10,331	138	.....
King William.....	.....	8,529	1,940	.....
Lancaster.....	.....	5,154	5,315	.....
Northumberland.....	.....	7,530	2,939	.....
Prince George.....	.....	8,410	2,059	.....
Sussex.....	.....	10,175	294	.....
Richmond.....	.....	6,856	3,613	.....
Westmoreland.....	.....	8,280	2,189	.....
Fairfax.....	1	11,835	.....	1,366
Alexandria.....	1	12,652	.....	2,183

* New county—formed in 1861. It was formed out of parts of Tazewell, Wythe and Giles.

No. 4.

Statement showing the Number of Votes cast in the Presidential Election in 1860, and the rate per centum of said votes as compared with the entire population in 1860.

COUNTIES.	Total white population of all ages and both sexes.	Total colored population.	Aggregate population according to census of 1860.	No. votes cast in the several counties at presidential election in Nov. 1861.	The rate per centum of said votes, as compared with white population in 1860.
Accomac	10,687	7,899	18,586	1,553	14.53
Albemarle	12,205	14,420	26,625	2,470	20.24
Alexandria	9,858	2,794	12,652	1,734	17.59
Alleghany	5,643	1,122	6,765	631	11.18
Amelia	2,894	7,859	10,753	573	19.79
Amherst	7,136	7,180	14,316	1,456	20.40
Appomattox	4,112	4,776	8,889	794	19.30
Augusta	18,668	5,176	23,844	3,865	20.70
Bath	2,652	1,024	3,676	405	11.50
Bedford	14,390	3,014	25,068	2,596	11.09
Bland					
Botetourt	8,444	10,678	11,516	1,353	16.02
Brunswick	4,993	9,818	14,811	889	17.71
Buckingham	6,041	9,171	15,212	1,090	16.05
Buchanan	2,762	31	2,793	167	6.05
Campbell	9,740	9,546	19,286	2,875	29.52
Caroline	6,950	11,515	18,465	1,315	19.94
Carroll	7,719	293	8,012	1,055	13.66
Charles City	1,806	3,803	5,609	344	19.04
Charlotte	4,981	9,488	14,469	908	18.23
Chesterfield	10,018	8,997	19,015	1,704	17.09
Clarke	3,707	3,439	7,146	672	18.13
Craig	3,106	427	3,553	436	14.03
Culpeper	4,964	7,100	12,064	1,070	21.55
Cumberland	2,946	7,015	9,961	591	20.06
Dinwiddie	4,649	7,271	11,920	826	17.76
Elizabeth City	3,180	2,618	5,798	436	13.71
Essex	3,295	7,174	10,469	591	17.93
Fairfax	8,047	3,788	11,835	1,467	18.23
Fauquier	10,457	11,247	21,754	2,055	19.65
Floyd	7,745	491	8,236	820	10.58
Fluvanna	5,102	5,251	10,353	937	18.36
Franklin	13,642	6,456	20,098	2,072	15.19
Frederick	10,077	2,076	12,153	2,344	23.26
Giles	6,051	832	6,883	673	11.12
Gloucester	4,518	6,438	10,956	761	16.84
Goochland	3,814	6,842	10,656	672	17.62
Grayson	7,653	599	8,252	778	10.11
Greene	3,019	2,006	5,025	605	20.04

Statement No. 4—Continued.

COUNTIES.	Total white population of all ages and both sexes.	Total colored population.	Aggregate population ac- cording to census of 1860.	No. votes cast in the several counties at the presiden- tial election in Nov. 1860.	The rate per centum of said votes, as compared with white population in 1860.
Greensville.....	1,973	4,401	6,374	331	16.78
Halifax.....	11,066	.....	.....	.....	.....
Hanover.....	7,508	9,717	17,225	1,351	17.99
Henrico.....	13,697	9,946	23,643	2,233	16.30
Henry.....	6,779	5,326	12,105	1,046	15.43
Highland.....	3,890	429	4,319	640	16.45
Isle of Wight.....	5,053	4,924	9,977	923	18.26
James City.....	1,412	2,764	4,176	213	15.08
King George.....	2,515	4,060	6,575	449	17.85
King & Queen.....	3,891	6,530	10,330	767	20.17
King William.....	2,589	5,940	8,529	465	17.96
Lancaster.....	1,984	3,170	5,154	363	18.29
Lee.....	10,195	837	11,032	1,366	13.39
Loudoun.....	15,030	7,842	21,772	2,942	19.57
Louisa.....	6,166	10,532	16,698	1,254	20.34
Lunenburg.....	4,447	7,537	11,984	810	18.21
Madison.....	4,364	4,490	8,854	928	21.26
Mathews.....	3,865	3,226	7,091	557	14.41
Mecklenburg.....	6,777	13,319	20,096	1,394	20.57
Middlesex.....	1,866	2,498	4,364	392	21.01
Montgomery.....	8,259	1,356	10,615	1,211	14.66
Nansemond.....	3,742	7,951	13,693	907	15.80
Nelson.....	6,656	6,459	13,015	1,235	18.55
New Kent.....	2,146	3,738	5,884	438	20.41
Norfolk county.....	5,387	4,765	10,152	1,203	22.33
Northampton.....	2,994	4,838	7,832	454	15.19
Northumberland.....	3,871	3,659	7,530	627	16.19
Nottoway.....	2,270	6,566	8,836	438	19.34
Orange.....	4,407	6,299	10,706	914	20.74
Page.....	6,875	1,234	8,169	1,153	16.77
Patrick.....	7,159	2,200	9,359	935	13.06
Pittsylvania.....	15,027	12,629	27,656	2,936	19.53
Powhatan.....	2,589	5,812	8,391	492	18.23
Prince Edward.....	4,038	7,816	11,844	862	21.38
Prince George.....	2,918	5,492	8,410	560	19.19
Princess Anne.....	4,335	3,379	7,714	846	19.51
Prince William.....	5,689	2,876	8,565	1,042	18.32
Pulaski.....	3,814	1,602	5,416	687	18.00
Rappahannock.....	5,918	3,832	8,850	929	18.51
Richmond.....	3,579	3,286	6,866	544	15.24
Roanoke.....	5,399	73	5,382	517	9.74
Rockbridge.....	12,845	4,405	17,250	2,233	17.40
Rockingham.....	26,495	2,913	29,408	2,913	14.21
Russell.....	9,039	1,150	10,189	996	11.06
Scott.....	11,530	542	12,072	1,176	10.20
Shenandoah.....	12,829	1,667	13,896	2,433	19.43
Smyth.....	7,734	1,218	8,952	991	12.81
Southampton.....	5,757	7,659	12,916	1,117	19.40
Spotsylvania.....	4,396	6,652	11,048	1,372	31.21

Statement No. 4—Continued.

COUNTIES, &c.	Total white population of all ages and both sexes.	Total colored population.	Aggregate population ac- cording to census of 1860.	No. votes cast in the several counties at the presiden- tial election in Nov. 1860.	The ratio per centum of said votes, as compared with white population in 1860.
Stafford.....	4,922	3,633	8,555	971	19.73
Surry.....	2,364	3,769	6,133	367	15.52
Sussex.....	3,118	7,057	10,175	567	18.18
Tazewell.....	8,627	1,293	9,920	1,240	14.37
Warren.....	4,586	1,856	6,442	750	16.35
Warwick.....	662	1,078	1,740	104	15.71
Washington.....	14,098	2,795	16,893	2,150	15.25
Westmoreland.....	3,386	4,896	8,280	602	17.78
Wise.....	4,416	92	4,508	473	10.71
Wythe.....	9,986	2,319	12,305	1,434	14.36
York.....	2,353	2,596	4,949	320	13.60
Norfolk city.....	10,115	5,560	15,717	1,655	19.29
Petersburg.....	9,434	8,844	18,278	1,806	19.14
Portsmouth.....	8,799	1,490	10,289	1,455	16.53
Richmond city.....	24,287	23,686	37,973	4,322	17.71
Danville.....	1,674	1,965	3,639	*	*
Williamsburg.....	744	868	1,612	||	||
Fredericksburg.....	3,315	1,713	5,028	†	†
Lynchburg.....	3,791	3,066	6,857	†	†
Staunton.....	2,889	1,017	3,906	§	§

* Included in Pittsylvania.

|| Included in James City.

† Included in Spotsylvania.

‡ Included in Campbell.

§ Included in Augusta.

No. 5.

Statement showing the Value of Real Estate in 1860, and the Personal Property in 1866.

COUNTIES AND CITIES.	Value of real estate in 1860.	Aggregate of personal property, taxed at 14 cents on the \$100, value in 1866.	Area in square miles of each county and district, as ascertained from surveyors' certificates.	Area in square miles of each county and district, as ascertained from the number of acres of land taxed.
Alexandria.....	5,066,425	455,572	36	28
Accomac.....	3,288,595	No returns	526	370
Charles City.....	1,305,827	161,723	216	175
Caroline.....	4,727,562	489,377	563	505
Chesterfield.....	4,273,429	437,943	468	441
Essex.....	3,651,663	509,898	307	259
Elizabeth City.....	2,390,530	137,213	87	55
Fairfax.....	3,913,107	672,028	444	410
Greensville.....	1,324,494	173,359	325	289
Gloucester.....	2,584,441	213,848	301	210
Hanover.....	2,263,388	402,945	434	452
Henrico.....	8,576,777	1,147,495	292	251
Isle of Wight.....	1,842,295	438,395	400	295
James City.....	805,388	125,227	150	144
King George.....	3,755,494	162,533	244	176
King William.....	3,671,600	236,350	270	265
King & Queen.....	5,177,324	340,303	335	310
Lancaster.....	2,462,375	193,070	161	128
Mathews.....	3,066,310	150,498	127	85
Middlesex.....	1,727,768	163,388	187	128
Nansemond.....	4,999,560	429,419	444	400
New Kent.....	2,173,800	177,910	260	205
Norfolk County.....	3,593,113	345,275	497	355
Northumberland.....	2,271,802	149,840	295	188
Northampton.....	2,792,995	322,417	301	164
Princess Anne.....	1,956,116	410,909	374	240
Prince George.....	2,108,425	164,443	305	299
Prince William.....	2,483,498	414,332	370	336
Richmond county.....	1,228,165	253,289	194	187
Stafford.....	1,975,720	306,593	335	263
Southampton.....	1,882,692	408,175	650	409
Spotsylvania.....	1,841,530	No returns	375	402
Surry.....	1,223,142	186,031	323	248
Sussex.....	1,736,654	373,087	466	461
Warwick.....	369,350	31,179	95	77
Westmoreland.....	1,920,394	289,188	316	229
York.....	715,420	124,048	149	115
Albemarle.....	8,572,770	958,428	682	722

Statement No. 5—Continued.

COUNTIES AND CITIES.	Value of real estate in 1860.	Aggregate of personal property, taxed at 14 cents on the \$100 value, in 1866.	Area in square miles of each county and district, as ascertained from surveyors' certificates.	Area in square miles of each county and district, as ascertained from the number of acres of land taxed.
Amelia.....	2,777,007	501,180	356	352
Amherst.....	3,718,968	534,450	477	681
Appomattox.....	2,017,334	360,085	400	329
Bedford.....	7,640,556	692,943	772	795
Brunswick.....	2,587,607	372,745	580	555
Buckingham.....	4,103,031	450,612	750	583
Campbell.....	4,826,323	595,584	450	500
Charlotte.....	4,756,209	783,465	470	471
Culpeper.....	5,556,716	349,535	400	363
Cumberland.....	2,727,861	391,634	282	281
Dinwiddie.....	3,187,366	290,180	540	515
Fauquier.....	5,996,712	1,631,885	688	631
Franklin.....	4,870,091	697,082	772	686
Fluvanna.....	2,547,226	No returns	280	283
Greene.....	1,185,538	125,895	200	166
Goochland.....	2,786,886	457,710	272	275
Halifax.....	7,154,009	1,083,088	794	807
Henry.....	2,174,685	453,159	358	378
Loudoun.....	12,312,701	2,072,303	536	508
Louisa.....	4,862,235	796,986	464	496
Lunenburg.....	2,438,714	312,319	400	365
Madison.....	2,999,957	324,500	296	370
Mecklenburg.....	4,466,906	688,956	736	639
Nelson.....	3,929,686	289,923	497	436
Nottoway.....	2,173,501	289,984	297	292
Orange.....	4,291,216	393,342	300	336
Patrick.....	1,298,803	286,767	542	754
Pittsylvania.....	7,998,184	847,877	892	988
Prince Edward.....	3,211,424	516,736	344	347
Powhatan.....	3,257,823	362,264	280	255
Rappahannock.....	3,117,788	526,459	300	257
Alleghany.....	1,357,405	210,478	527	656
Augusta.....	14,326,399	1,561,544	1,152	1,121
Bath.....	1,732,922	291,113	900	782
Botetourt.....	4,341,347	683,674	550	400
Clarke.....	3,837,276	616,545	225	176
Craig.....	1,058,585	145,472	297	368
Frederick.....	6,840,438	880,595	625	412
Highland.....	1,584,421	296,757	390	336
Page.....	2,526,274	738,448	319	324
Roanoke.....	3,882,290	No returns	272	305
Rockbridge.....	7,165,272	1,176,783	750	685
Rockingham.....	10,446,512	1,387,129	1,500	888
Shenandoah.....	5,492,236	1,023,460	792	530
Warren.....	2,286,035	244,142	500	223
Buchanan.....	213,357	No returns	2,500	552
Carroll.....	1,001,908	218,886	900	1,340
Floyd.....	1,384,296	248,628	477	343
Grayson.....	1,464,938	246,289	720	842

Statement No. 5—Continued.

COUNTIES AND CITIES.	Value of real estate in 1866.	Aggregate of personal property, taxed at 14 cents on the \$100 value, in 1866.	Area in square miles of each county and district, as ascertained from surveyors' certificates.	Area in square miles of each county and district, as ascertained from the number of acres of land taxed.
Giles.....	1,820,049	210,872	600	420
Lee.....	3,297,312	498,605	780	580
Montgomery.....	4,134,315	427,625	783	430
Pulaski.....	2,557,663	463,508	324	300
Russell.....	2,956,886	505,156	2,590	517
Scott.....	2,119,937	477,133	529	705
Smyth.....	2,571,965	414,265	484	586
Tazewell.....	3,104,524	455,028	560	978
Washington.....	5,337,875	1,012,570	850	587
Wise.....	569,287	122,033	388	1,316
Wythe.....	4,736,262	709,776	750	1,237
Bland.*				
Total in counties.....	327,993,604	44,685,495		
Total in cities.....		235,982		
Danville—No returns.				
Fredericksburg—No returns.				
Lynchburg—No returns.				
Norfolk.....		646,486	2	
Petersburg.....		2,013,090	2	
Portsmouth, (area included in Norfolk county,)...		198,680	6	
Richmond.....		2,930,557	6	
Staunton.....		278,122		
Williamsburg.....		178,848	4	
Winchester.....		494,379		
Total in corporations.....		6,976,144		

* New county—formed in 1861. It was formed out of parts of Wythe, Tazewell and Giles.

REPORT

OF THE

COMMITTEE ON THE PARDONING POWER.

RICHMOND, VA., January 16, 1868.

To the Constitutional Convention, Richmond, Virginia :

We, the Committee on the Pardoning Power, beg leave to submit the following report :

We, the Committee, had under consideration the following resolution, offered by Mr. Allan in the Convention and referred :

“ *Resolved*, That the Committee on the Pardoning Power be instructed to inquire into the propriety of clothing the Executive with the authority to remove all political disability from any person who may become a subject of Executive clemency, when, in his opinion, the facts of the case warrant such a course.”

After due consideration of the foregoing resolution, your committee are of the opinion that it would be unsafe to grant this power to the Executive, inasmuch as the Executive could cause to be released, in times of heated political contests, criminals legally imprisoned, for the purpose of controlling elections, and thereby release them from punishment rightly imposed.

Your Committee are further of the opinion, that it would be an excuse for crime. Although they have known of cases where men discharged from prison are since good citizens, and it would be safe to clothe them with the privileges of the ballot, but know that laws must be general, and cannot meet individual cases.

Your Committee further desire to offer the following as their report upon the Pardoning Power, and respectfully ask the Convention to adopt it as part of the Constitution of the State of Virginia, viz :

“ The Governor shall have power to remit fines and penalties in such cases and under such rules and regulations as may be prescribed by law ; and, except when the prosecution has been carried on by the House of Delegates, or the law shall otherwise particularly direct, to grant reprieves and pardons after conviction, and to commute capital punishment ; but he shall communicate to the General Assembly, at each session, the particulars of every case of fine or penalty remitted, of reprieve or pardon granted, and of punishment commuted, with his reasons for remitting, granting or commuting the same.”

Respectfully submitted.

D. G. CARR,
A. H. FLANAGAN,
B. F. LEWIS,
WM. H. ANDREWS,
Committee.

REPORT
OF THE
JUDICIARY COMMITTEE
ON THE RESOLUTIONS OF
MESSRS. JAMES AND MILBOURN.

On the motion of Mr. James, the Convention adopted and referred to the Judiciary Committee the consideration of the following resolution :

“*Resolved*, That all debts, including State taxes, (and excepting State debt) contracted before April 3rd, 1865, shall be scaled down to (25) twenty-five cents on the dollar; that all actions now pending be stayed, and costs be assessed to the same scale; and that henceforth no more be claimable by law than (25) twenty-five cents on the dollar of all such debts.”

The committee has had this subject before it, and has considered it as fully as the time and opportunity afforded it would permit. It has arrived at the following conclusions, which I am instructed to submit to the Convention :

The resolution includes all debts contracted prior to the 3rd of April, 1865, and raises no question as to their validity, or the consideration for which they were executed; neither does it draw any distinction between debts contracted before, and during the late war; but includes all alike, without any regard as to whether they are valid or invalid—whether there has been a failure of consideration or not—or whether they were to be paid in Confederate money, or in currency equivalent to gold and silver. And this committee is called upon to say, whether these debts shall be reduced to twenty-five cents in the dollar, and the creditors be compelled to accept that sum in discharge thereof. This proposition raises the question of the power of the Convention to act in the premises, and to afford the relief sought to be obtained.

The Convention that framed the Constitution of the United States had this subject before it; and after mature consideration, determined to deny to the several States all right to interfere, in whole or in part, with the obligation of contracts. This determination, made under circumstances that give to it peculiar weight and sanctity, will be found in the 10th section of the first article of that instrument, which says, “that no State shall pass any bills of attainder, *ex post facto* laws, or laws impairing the obligation of contracts.” The condition of the States at the time that Convention assembled appealed strongly to it for relief. The States, impoverished by a long war, were struggling for existence—their currency had become worthless—their citizens burdened with debts, held mainly by foreigners, who, being opposed to the revolution, fled the country at

the opening of hostilities, and returned to it at the close of the war, only to enforce the collection of their debts, and thereby to add to the distress of the country. Yet in view of all these facts, so thoroughly was that body impressed with the inviolability of contracts, that it withstood the popular clamor for relief, and denied to the States all power to impair their obligation of contracts, in whole or in part.

Recognizing the Constitution of the United States as the supreme law of the land, to which obedience is due from every good citizen, the committee does not hesitate to declare that this Convention has no power to scale the debts, as proposed, or to decide that they shall be discharged by any sum less than that agreed upon by the parties thereto. To do so would, to that extent, impair the obligation of these debts, and be in direct conflict with the clause of the Constitution above referred to. The committee can see no distinction in principle or law, between the destruction of a part, and the whole debt: for if the Convention, as has been shown, has no power, under the Constitution, to impair a contract, or to repudiate the *whole of a debt*, it certainly cannot release the debtor from *a part of it*.

In this connection, the committee has considered the resolution offered by Mr. Milbourn, as to the expediency of passing "an ordinance forever forbidding all actions for the recovery of debts, or the interest thereon, contracted prior to the 9th of April, 1865." The remedies provided by law for enforcing a contract, are taken into consideration by the parties thereto, and, in legal contemplation, become an essential part of the contract. The creditor may be willing to lend his money, or sell his property upon time, when he knows that the law enables him to make collection, should his debtor be in default, who would do neither the one nor the other, if he believed he would be deprived of his remedy, and left at the mercy of his debtor. Being of opinion that the remedies furnished by law for the collection of debts, enter into and form a part of all such obligations, the committee is of opinion that to deny the parties the benefit of these remedies, would not only impair, but utterly destroy, the obligation of such contracts. It would leave the creditor with a right without a remedy, with a debt recognised as valid, without the means of collecting it. In other words, it would be a direct repudiation of the whole debt.

The committee is unable to see any distinction, in a legal or moral point of view, in the question presented by the two resolutions. It believes that both are in violation of the Constitution of the United States, and that this Convention has no right whatsoever, to scale the debts in the one case, or to deprive the parties of their remedies in the other.

Being fully convinced of the correctness of these conclusions, the committee does not hesitate to express the opinion, that any ordinance, such as contemplated by the resolutions aforesaid, would be held by the courts, both State and Federal, to be unconstitutional and void, and could, at most, afford the debtor only a temporary relief.

The committee has, thus far, examined these questions only in their legal and constitutional bearing, and might be content to rest their recommendation upon the considerations already presented, but there are other views of the question it desires to present, which it believes are not less worthy of attention. In its opinion, all acts and doings looking to repudiation are immoral in their tendency, and tend to the destruction of all public and private credit; that they will destroy confidence between man and man, drive industry and capital

from the State, and overthrow all the business relations of the country, founded upon the integrity and good faith of the community. Assuming that the State had the power to cancel debts, and could be induced, from temporary causes, to exercise it, what assurance can be given that it will stop with the debts contracted prior to April, 1865? What guarantee have we that repudiation, when once adopted, will not be resorted to, from time to time, as the exigences of the debtor may, in his opinion, require?

Every temporary embarrassment, arising either from idleness or extravagance, from a failure of the crops or the fluctuations in trade, would furnish a pretext for a further exercise of the power, and thus it would go on until repudiation became the settled policy of the State.

The bare agitation of such questions has a baneful influence upon the community. It unsettles the business operations of the State, and deters industry and capital from seeking employment and investment in our midst, for money and capital, which are ever timid, will never extend a helping hand to any community which repudiates its honest debts.

The State of Virginia, as well as its citizens, has thus far met its honest obligations, and sustained a reputation for integrity, honesty and fair dealing, unsurpassed by any State in the Union, and the committee sincerely hope that she will not now, when she has little left to repair her fortunes but her good name and the honesty of her citizens, be induced to adopt any measure that will tarnish her unsullied reputation and bring lasting disgrace upon her people.

In arriving at these conclusions, the committee has carefully considered the peculiar state of affairs relied upon by those who ask such relief. They know that it is contended, that as the debtor was forcibly deprived of all his former slaves and much of his other property, upon the faith of which, he obtained credit—that it would be unjust to require him to pay the whole of his debts. The committee has not been unmindful of the hardships of the case—where creditor and debtor are alike innocent, who shall bear the loss? Both alike suffered by the events of the war.

It was by no act of the creditor that the debtor lost his property—it was done by the Government, without the consent or connivance of either party—and if that Government were the creditor there would be some reason for saying that the debts should be scaled, or not be paid at all.

If the creditor is to be deprived of his rights in this case, he might, with like propriety, be denied them in every other case where misfortune overtakes his debtor, or a third party forcibly strips him of his means to pay, as by the burning of his house, or the stealing of his property.

Great as has been the destruction of property during the late war, and heavy as has been the loss of debtors, the committee is unable to see any distinction in principle, or in law, between the classes thus sustained, and those that fall upon property in the ordinary casualties incident to the possession of personal property.

For these, and many other reasons that might be assigned, the committee is of opinion that the Convention has no power to grant the desired relief, and that if it had, it would be unwise and inexpedient to exercise it.

It, therefore, asks to be discharged from the further consideration of these subjects.

Respectfully submitted,

January 18, 1868.

C. Y. THOMAS, *Chairman*,

RESOLUTION OF MR. PLATT.

Resolved, That a committee, to consist of five members, be appointed by the Chair, to inquire into the expediency of authorizing and requiring the General Assembly to impose upon all holders, owners, or claimants of judgments, *choses in action*, bonds, notes, accounts, or other evidences of indebtedness contracted before the 9th of April, 1865, or founded upon a consideration arising before that day, an annual tax of not less than ten nor more than twenty per cent. of the whole amount of money claimed to be due and payable; the amount so collected to be reserved as an addition to the school fund.

ARTICLE PROPOSED BY MR. SCOTT, TO BE INSERTED
BETWEEN THE FIRST AND SECOND SECTIONS OF THE
BILL OF RIGHTS.

That *Virginia is*, and of right ought to be, a co-equal member, and an integral part and parcel of the Government of the United States, and as such *is* entitled to *all* the benefits enjoyed by, and subject to *all* the burdens imposed upon; the several States composing said Government by the Constitution thereof and the laws passed pursuant thereto.

REPORT
OF THE
COMMITTEE ON INTERNAL IMPROVEMENTS
IN RELATION TO THE
SALE OF THE DISMAL SWAMP CANAL.

The Committee on Internal Improvements having maturely considered the resolution offered by L. Lee, Jr., as to the circumstances attending the sale of the "Dismal Swamp Canal," whether the terms imposed by the Legislature were complied with, and by what authority, &c., beg leave to report that the resolution is answered in the following communication from the Governor, and ask that it be read as part of their report :

"EXECUTIVE MANSION, January 8th, 1868.

"F. A. WINSTON, Esq.:

"DEAR SIR :

"In reply to your favor of to-day's date, asking me for information in regard to the following resolution, adopted by the Constitutional Convention now in session, viz : *Resolved*, That the Committee on Internal Improvements be instructed to inquire into and report to this Convention the circumstances attending the sale of the State's interest in the Dismal Swamp Canal, whether the terms imposed by the Legislature were complied with, and if so, by what authority and under what circumstances were the purchasing parties relieved from said conditions; I have to reply, that the Board of Public Works, in making the sale of the Dismal Swamp Canal, acted under an act of the General Assembly of Virginia, passed on the 2d day of March, 1867, which is in the following words, viz :

"Whereas, the canal of the Dismal Swamp Canal Company, in consequence of the late war, and from other causes, has been much injured; and whereas there is no prospect of the said canal being put in navigable condition within any reasonable time, and no prospect of the State receiving any revenue from the said canal; therefore,

"1. *Be it enacted by the General Assembly*, That the Board of Public Works be, and they are hereby, authorized, in their discretion, to sell, either publicly or privately, and upon such terms as shall to them seem best, the interest of the State of Virginia in the Dismal Swamp Canal Company : *provided*, that the proceeds of any such sale be applied in liquidation of the public debt.

"2. This act shall be in force from its passage.

“ You will perceive that the act of Assembly required the Board to make sale of the Disinal Swamp Canal without prescribing any conditions. The Board made the sale, as far as I am advised, in accordance with the act of the General Assembly. I know of no conditions prescribed that were not complied with. The money derived from said sale was paid into the public treasury, and immediately applied to the payment of the public debt, as prescribed by the Constitution.

The State's interest in the canal was sold at public auction, after having been advertised for thirty days. The advertisement required the purchaser to give bond and security to keep the canal in order. Before the sale, it was represented to the Board that the condition requiring the purchaser to give the bond and security would prevent bidders. Other persons were desirous that it should be sold under the condition. The Board maturely considered the question; they were selling, perhaps, less than a third of the stock in the canal. The bond was not authorized by the Legislature. The canal was in debt some one hundred and fifty or two hundred thousand dollars. The engineer had reported that it would take from three hundred thousand to four hundred thousand dollars to put the canal in good condition. This Legislature had not required the bond. The Board considered that no prudent man, owning less than a majority of the stock, would give such a bond; and it is very doubtful whether such a bond could be enforced if it had been given. On examination of the law of the State, it will be found that where any work of internal improvement is abandoned, the improvement reverts to the State.

“ I am, yours truly,

“ F. H. PEIRPOINT.”

The committee would continue their report by saying they are in doubt as to the legality of the sale, a bond having been demanded in the advertisement of the Board of Public Works not required by the law authorizing the sale.

F. A. WINSTON, *Chairman*,
LUTHER LEE, JR.,
SAMUEL F. KELSO,
J. W. BROADUS,
M. F. ROBERTSON.

January 18, 1868.

REPORT
OF THE
STANDING COMMITTEE
ON THE
EXECUTIVE DEPARTMENT OF GOVERNMENT.

To the President of the Virginia State Constitutional Convention :

Your Standing Committee on the Executive Department of Government beg leave respectfully to present the following report, and recommend the adoption, by the Convention, of the several provisions therein contained, as a part of the constitution of this State. The committee would further respectfully report, that they have had under consideration the following resolution, to them referred, viz :

“*Resolved*, That the Executive Committee inquire into the expediency of incorporating into the constitution the following provision, to-wit : ‘In the Executive Department of the State there shall be a bureau of agriculture, one of statistics, one of manufactures and arts, one of trade and commerce, and one of civil engineering and surveys, the duties and operations of which shall be organized and regulated by law;’”

and the following, viz :

“Whereas, it is reported by persons experienced in mineralogy that our State abounds in rich minerals of various kinds : therefore.

“*Resolved*, That the Convention require to be appointed a State Geologist, whose duties shall be to discover and develop, as far as he can, the mineral wealth of the State,”

and have given the subject matter of both careful attention. The committee have thought proper to embody in their recommendations, in some form, the provisions to which the resolutions refer.

Respectfully submitted,

GASTON G. CURTISS, *Chairman*,
GEORGE TEAMOH,
WM. H. LYDICK,
FRED. H. POOR,
THOMAS BAYNE.

January 20th, 1868.

EXECUTIVE DEPARTMENT.

GOVERNOR.

1. The chief executive power of this Commonwealth shall be vested in a Governor. He shall hold the office for the term of four years, to commence on the first day of January next succeeding his election, and be ineligible to the same office for the term next succeeding that for which he was elected, and to any other office during his term of service.

2. The Governor shall be elected by the voters, at the times and places of choosing members of the General Assembly. Returns of elections shall be transmitted, under seal, by the proper officers, to the Secretary of the Commonwealth, who shall deliver them to the Speaker of the House of Delegates, on the first day of the next session of the General Assembly. The Speaker of the House of Delegates shall, within one week thereafter, in presence of a majority of the Senate and House of Delegates, open the said returns, and the votes shall then be counted. The person having the highest number of votes shall be declared elected; but if two or more shall have the highest and an equal number of votes, one of them shall be chosen Governor by the joint vote of the two Houses of the General Assembly. Contested elections for Governor shall be decided by a like vote, and the mode of proceeding in such cases shall be prescribed by law.

3. No person shall be eligible to the office of Governor unless he has attained the age of thirty years, has been a citizen of the United States twenty years, and has been a citizen of Virginia for two years next preceding his election.

4. The Governor shall reside at the seat of government; shall receive five thousand dollars for each year of his services, and while in office, shall receive no other emolument from this or any other government.

5. He shall take care that the laws be faithfully executed; communicate to the General Assembly at every session the condition of the Commonwealth; recommend to their consideration such measures as he may deem expedient; and convene the General Assembly on application of a majority of the members of both Houses thereof, or when, in his opinion, the interest of the Commonwealth may require it. He shall be Commander-in-chief of the land and naval forces of the State; have power to embody the militia to repel invasion, suppress insurrection, and enforce the execution of the laws; conduct, either in person or in such other manner as shall be prescribed by law, all intercourse with other and foreign states; and, during the recess of the General Assembly, fill, *pro tempore*, all vacancies in those offices for which the Constitution and laws make no provision; but his appointments to such vacancies shall be by commissions, to expire at the end of thirty days after the commencement of the next session of the General Assembly. He shall have power to remit fines and penalties in such cases and under such rules and regulations as may be prescribed by law; and, except when the prosecution has been carried on by the House of Delegates, or the law shall otherwise particularly direct, to grant reprieves and pardons after conviction, and to commute capital punishment; but he shall communicate to the General Assembly, at each session, the particulars of every case of fine or penalty remitted, of reprieve or pardon granted, and of punishment commuted, with his reasons for remitting, granting or commuting the same.

6. He may require information in writing from the officers in the Executive department upon any subject relating to the duties of their respective offices; and may also require the opinion, in writing, of the Attorney-General upon any question of law connected with his official duties.

7. Commissions and grants shall run in the name of the Commonwealth of Virginia, and be attested by the Governor, with the seal of the Commonwealth annexed.

8. Every bill which shall have passed the Senate and House of Delegates, and every resolution requiring the assent of both branches of the General Assembly, shall, before it becomes a law, be presented to the Governor; if he approve he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their Journal and proceed to reconsider it. If, after such consideration, two-thirds of the members present shall agree to pass the bill or joint resolution, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members present it shall become a law, notwithstanding the objections of the Governor. But in all such cases the votes of both Houses shall be determined by ayes and noes, and the names of the members voting for and against the bill or joint resolution shall be entered on the Journal of each House respectively. If any bill or resolution shall not be returned by the Governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Legislature shall, by their adjournment, prevent its return; in which case it shall not be a law.

LIEUTENANT-GOVERNOR.

9. A Lieutenant-Governor shall be elected at the same time, and for the same term as the Governor, and his qualification and the manner of his election in all respects shall be the same.

10. In case of the removal of the Governor from office, or of his death, failure to qualify, resignation, removal from the State, or inability to discharge the powers and duties of the office, the said office, with its compensation, shall devolve upon the Lieutenant-Governor; and the General Assembly shall provide by law for the discharge of the executive functions in other necessary cases.

11. The Lieutenant-Governor shall be President of the Senate, but shall have no vote except in case of an equal division; and while acting as such, shall receive a compensation equal to that allowed to the Speaker of the House of Delegates.

SECRETARY OF THE COMMONWEALTH, TREASURER AND AUDITOR.

12. A Secretary of the Commonwealth, a Treasurer and an Auditor of Public Accounts shall be elected by the Senate, upon the nomination of the Governor, and continue in office for the term of two years, unless sooner removed. The salary of each shall be determined by law.

13. The Secretary shall keep a record of the official acts of the Governor, which shall be signed by the Governor and attested by the Secretary; and when required, he shall lay the same, and any papers, minutes and vouchers pertaining to his office, before either house of the General Assembly; and shall perform such other duties as may be prescribed by law. All fees received by the Secretary shall be paid into the treasury.

14. The powers and duties of the Treasurer and Auditor shall be such as now are, or may be hereafter, prescribed by law.

15. There shall be established in the office of the Secretary of State a bureau of statistics and a bureau of agricultural chemistry and geology, under such regulations as may be prescribed by law.

16. The General Assembly shall have power to establish a bureau of agriculture, a bureau of manufactures and arts, a bureau of trade and commerce, and a bureau of civil engineering and surveys, under such regulations as may be prescribed by law.

BOARD OF PUBLIC WORKS.

17. There shall be a Board of Public Works, to consist of the Governor, Auditor and Treasurer of the Commonwealth, under such regulations as may be prescribed by law. The Secretary of the Commonwealth shall discharge the duties of clerk of the Board of Public Works.

REPORT OF COMMITTEE

ON

BANKING INSTITUTIONS.

The Convention, in its wisdom, having deemed it proper to constitute a committee to take into consideration what action, if any, should be had in framing a constitution for the State of Virginia, in reference to *banking, insurance and kindred subjects*, after due consideration, your committee beg leave to submit the following :

So far as relates to banks of circulation, your committee might refer to the past history of such institutions in Virginia, and point with just pride to their good management and the high credit the old institutions of our State had attained ; and how barely, if ever, our people had been deluded by the worthless circulation of a broken bank amongst us !

But the disasters of the past seven years have not only broken down, but swept away almost every vestige of these time-honored institutions ; and as under the new order of things the Congress of the United States has inaugurated a system of *national banks* of circulation, discount and deposit, based upon Federal securities, the circulation of which has a uniform value in every part of the Union, and which system allows, by its very terms, no rival institutions of State formation, and no interference with the present system of State authority, therefore your committee deem any recommendation of action, in reference to this branch of the subject referred to them, unnecessary, unless, indeed, so far as the subject of taxation is concerned, as to which, no doubt, the proper committee, in charge of that subject, will give the desired attention.

With regard to the numerous institutions of recent origin, existing in our State, known either as banks of discount and deposit, savings banks or trust companies, it is argued by some that many of these so-called banks are merely broker-shops in disguise ; that they absorb the *loose funds* of the country, at legal rates, to be loaned out on usurious terms, which funds, in the *old-fashioned way*, would have been loaned out to the merchant or farmer, direct by the owners, at the lower rate at which it is taken up by these institutions ; and it is also thought by some that the business of brokerage is frequently carried on under the eve of such companies, by which means the usual high taxation on such business is evaded. Yet whilst these, as well as most other human institutions, are liable to be used improperly to advance the interests of selfish and designing parties, yet it is believed that the wants and circumstances of our age demand the use of well-regulated and properly-managed *savings banks*,

whereby the small earnings of the frugal and industrious may be saved and augmented, and at the same time these small sums be aggregated and made to exercise a happy influence on the trade and business of the country, which could soon be effected by each individual folding his talent (or mite) in a napkin and burying it in the earth.

It is believed that the first savings bank established in the United States was the "Philadelphia Savings Fund Society," organized in 1816 by a number of philanthropic citizens of that community, with a view to promote habits of foresight and saving among the laboring poor of their vicinity. This Society had a long and prosperous career, and after the year 1838, had received deposits amounting to largely upwards of six millions of dollars. This association has not only been the means of doing much good, but has been the model after which the better class of similar institutions has been formed in the various cities of the United States. It seems also to your committee peculiarly desirable that these habits of foresight and economy should be fostered amongst those who have so recently been endowed, not only with the blessing of liberty, but also with the responsibility of providing for the material welfare of themselves and their posterity. Whether any action will be necessary, on the part of the committee, to foster future legislation in this direction, it will be for your body to decide.

Your committee, in considering the subject of insurance, think it desirable that such legislation should be encouraged as will be best calculated to promote in our State well-organized insurance companies, and at the same time not impose such heavy burthens on the best institutions of other States as will prevent our people from having the benefit of their services, should our State corporations be unable to do all the business desired of them. It is believed from all the lights before your committee, that these institutions would be more successful and useful if each company devoted itself to one particular branch of the business of insurance; that life insurance should constitute one business and the sole occupation of one company, and so likewise with fire and marine insurance. From the experience of past years, so far as your committee can learn, it is shown that very few, if any, insurance companies of this State have failed and caused loss to their policy holders. Your committee are of the opinion, therefore, that this subject may safely be left to be regulated by the future legislation of the State.

In conclusion, your committee, at this time, beg leave to submit the foregoing views on these several subjects, *reserving* to themselves the privilege of recommending to the Convention any action that a further investigation and a fuller reflection on these very important matters may cause them to think proper and desirable.

C. L. THOMPSON, *Chairman.*

ARTICLES XX. AND XXI. OF THE BILL OF RIGHTS, OF
FERED BY MR. PORTER.

ARTICLE XX.

(To be inserted between Articles 19 and 20.)

That all persons residing in this State, and born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of this State.

ARTICLE XXI.

(To be inserted between Articles 20 and 21.)

That the right to vote, to hold office, and act as a juror, shall never be denied to any of the male inhabitants of this State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, or for mental unsoundness; and that any other civil or political right which was enjoyed by any class of the people of this State previous to the year 1861, shall never be denied to any of the people, or in any way abridged, except for the causes above stated.

SUBSTITUTE OF MR. HAWXHURST, OFFERED FOR THE
ONE PROPOSED BY MR. PORTER.

The right of suffrage shall not be denied to any male citizen of the State over twenty-one years of age, except for crime, complicity with rebellion, or mental unsoundness, or disqualified for holding office or acting as a juror on account of his race or previous condition, nor shall any company or person, acting as common carrier, make any distinction on that account.

AMENDMENT PROPOSED BY MR. SNEAD TO THE REPORT OF THE COMMITTEE ON TAXATION AND FINANCE.

"But the General Assembly shall have the power to direct that a survey be made of the ground lying below low-water mark, not embraced within the lines of any patent in this State, (not including the natural oyster beds, which shall remain free and common to all the citizens thereof,) and provide for the division of the same in lots of one or more acres, and for the numbering and designation of the metes and bounds of the same by substantial stakes, and to direct that the same be leased at a price of not less than \$5 00 per acre, per annum, by the commissioners of revenue; and further, to provide that a map of such survey be placed and preserved in the clerk's office of the courts of the several counties, in which such lots, or planting grounds may lie, giving the preference in all cases to the persons who may occupy, at the time, any such ground.

"It shall also have authority to secure to the proprietors of lands on the bays, creeks and shores of this State, for their use and occupancy, without charge, so much of said planting grounds, belonging to the State, immediately adjacent to their lands, as the General Assembly may deem expedient, on condition that said proprietors allow the lessees of said planting grounds free egress and regress through their lands to the same, and permit them to occupy a portion of their shores during the terms of their lease, subject to a forfeiture of such privileges in case of gross abuse of the same.

"No tax shall be imposed on planted oysters.

"No *bona fide* resident of the State shall be precluded from the full enjoyment of any of the rights enjoyed by other citizens of this State, in regard to the catching or planting of oysters; nor shall any citizen of this State be prohibited from being concerned or interested with a citizen of any of the United States in the catching or planting of oysters, or in the sale of the same.

"The General Assembly may impose a tax on the proceeds of the sales of oysters taken from the natural beds or rocks by scoops or dredges, such tax not to exceed the rate of tax that may be imposed on any other property."

REPORT

OF THE

COMMITTEE ON EDUCATION

To the Constitutional Convention of the State of Virginia :

The Committee on Education and Funds relating thereto, after mature deliberation, beg leave to submit, through its chairman, the following proposed article to the Constitution of the State of Virginia, and respectfully recommend its adoption by this Convention.

L. M. NICKERSON,
Chairman.

ARTICLE.

EDUCATION AND FUNDS RELATING THERETO.

SEC. 1. The General Assembly shall elect, in joint ballot, within thirty days after its organization under this Constitution, and every fourth year thereafter a Superintendent of Public Instruction. He shall have the general supervision of the educational interests of the State, and shall report to the General Assembly, within thirty days after his election, a uniform system of free public schools.

SEC. 2. There shall be a Board of Education, composed of the Governor, Superintendent of Public Instruction and Attorney-General, which shall appoint and have power to remove, subject to confirmation by the Senate, all county superintendents of public schools; and shall have the management and investment of all school funds, and such supervision of schools of higher grade as the law shall provide.

SEC. 3. The General Assembly shall provide by law, at its first session under this constitution, a uniform system of free public schools; and for its gradual, equal and full introduction into all the counties of the State, by the year 1874, or as much earlier as may be practicable.

SEC. 4. The General Assembly shall establish, as soon as practicable, normal and agricultural schools, and shall have the power to establish such grades of schools from the primary department to the University, as shall be for the public good.

SEC. 5. The General Assembly shall have power to provide for uniformity of text books, and for the building of school houses, the procuring of school apparatus and school libraries for each public school district, out of the public

school funds of the State, or in such other manner as shall be equitable and for the public good.

SEC. 6. The General Assembly shall set apart as a permanent and perpetual literary fund the present literary funds of the State, the proceeds of all public lands donated by Congress or by the State for school purposes, all property that may accrue to the State by forfeiture, or by persons dying without heirs and will, and such other sums as the General Assembly may appropriate.

SEC. 7. The General Assembly shall apply the annual interest on the literary fund, any capitation or other special tax provided for by this constitution, for public school purposes, and such other general tax on the property of the State as the General Assembly may levy for such purposes, for the equal benefit of the people thereof—the number of children between the ages of five and twenty-one years in each public school district being made the basis of such division.

SEC. 8. The General Assembly shall have power to foster all higher grades of schools under its supervision, and to provide for such purpose a permanent educational fund.

SEC. 9. All donations and grants received by the General Assembly for educational purposes shall be applied according to the terms prescribed by the donors.

SEC. 10. The General Assembly shall have power, after a full introduction of the public free school system, to make such laws as shall not permit parents and guardians to allow their children to grow up in ignorance and poverty.

SEC. 11. The General Assembly shall have power to make all needful laws and regulations to carry into effect the provisions of this article.

REPORT
OF THE
COMMITTEE ON THE ELECTIVE FRANCHISE
AND
QUALIFICATIONS FOR OFFICE.

ARTICLE.

THE ELECTIVE FRANCHISE.

SECTION 1. Every male citizen of the United States, twenty-one years old, who shall have been a resident of this State six months, and of the county, city or town, in which he shall offer to vote, one month next preceding any election, shall be entitled to vote upon all questions submitted to the people at such election: provided, that no officer, soldier, seaman or marine of the United States army or navy shall be considered a resident of this State by reason of being stationed therein; and, provided also, that the following persons shall be excluded from voting:

1. Idiots and lunatics.
2. Persons convicted of bribery in any election, embezzlement of public funds, treason or felony.
3. Any person who shall challenge another, or accept a challenge to fight a duel, or act as second to any person about to engage in a duel.
4. All persons who, by the proposed Amendment to the Constitution of the United States, known as Article Fourteen, or by the Reconstruction Acts, are prohibited from holding office, or from registering to vote for delegates to the Convention to frame a constitution. Provided, that the General Assembly may, by a two-thirds vote of both Houses, remove the disability imposed by this clause.

SEC. 2. All elections shall be by ballot, and all persons entitled to vote shall be eligible to any office within the gift of the people, except as restricted in this constitution.

SEC. 3. All persons entitled to vote and hold office—and none other—shall be eligible to sit as jurors.

SEC. 4. The General Assembly shall, at its first session under this constitution, enact a general registration law.

SEC. 5. No person shall be deprived of voting at any election because of non-payment of any tax that may be imposed by law.

SEC. 6. No voter, during the time of holding any election at which he is entitled to vote, shall be compelled to perform military service, except in time of war or public danger, to work upon the public roads, or to attend any court as suitor, juror or witness; and no voter shall be subject to arrest under any civil process during his attendance at elections, or in going to or returning from them.

OATH OF OFFICE.

All persons before entering upon the discharge of any function as officers of this State, must take and subscribe the following oath or affirmation :

I, ———, do solemnly swear (or affirm) that I will support and maintain the Constitution and Laws of the United States, and the Constitution and Laws of the State of Virginia; that I recognize and accept the civil and political equality of all men before the laws, and that I will faithfully perform the duty of ———, to the best of my ability. So help me God.

Respectfully submitted,

JAS. W. HUNNICUTT,

Chairman of the Committee.

MINORITY REPORT
OF THE
COMMITTEE ON THE ELECTIVE FRANCHISE
AND
QUALIFICATIONS FOR OFFICE.

RIGHT OF SUFFRAGE.

Every male citizen of the United States (not laboring under the disabilities hereinafter named) of the age of twenty-one years and upwards, who shall have actually resided in this State six months and in the district or county three months next preceding any election, shall be qualified to vote for members of the General Assembly and all officers elective by the people.

No person shall be entitled to vote who has been a Senator or Representative in Congress, or elector of President or Vice-President, or who held any office, civil or military, under the United States, and shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof, unless such disability shall have been removed by Congress: provided this clause shall not be construed to include county officers.

No person shall be a qualified elector who voted for and subscribed any ordinance or act intending or attempting to repeal or abrogate any ordinance or act of this or any other State ratifying the Constitution of the United States.

No person shall be entitled to vote who shall have held or discharged the functions of any of the following offices under the late so-called Confederate States, viz: President, Vice-President, members of the Cabinet, members of either house of Congress, diplomatic, consular or domestic agents at home or abroad, all officers of said pretended government above the rank of Colonel in the army or Lieutenant in the navy, or who shall have commanded any independent military organization, and all who have engaged, in any way, in treating, otherwise than lawfully as prisoners of war, persons found in the United States service as officers, soldiers, seamen or other capacities.

No person shall be entitled to vote who has been or may be convicted of treason or felony in any State or Territory of the United States, unless restored to civil rights, and no idiot or insane person shall be entitled to the privilege of an elector.

SEC. 2. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States; nor while engaged in the navigation of the waters of the United States or of the high seas; nor while a student of any seminary of learning; nor while kept at any alms-house or other asylum, at public expense; nor while confined in any public prison.

SEC. 3. During the day on which any general election shall be held in this State, no qualified elector shall be arrested by virtue of any civil process.

SEC. 4. All elections by the people shall be by ballot, and all elections by the Legislature, or by either branch thereof, shall be *viva voce*.

SEC. 5. Provision shall be made by law for the registration of the names of the electors within the counties of which they may be residents, and for the ascertainment, by proper proofs, of the persons who shall be entitled to the right of suffrage, as hereby established, to preserve the purity of elections, and to regulate the manner of holding and making returns of the same; and the Legislature shall have power to prescribe any action or further rules or oaths as may be deemed necessary, as a test of electoral qualification.

After the year A. D. 1870, no person shall be a qualified voter who has not paid the tax assessed against him by the State for the year previous.

GENERAL QUALIFICATIONS FOR OFFICE.

No person shall be eligible to any office who is not a qualified voter under this constitution.

No person who, while a citizen of this State, has, since the adoption of this constitution, fought a duel with a deadly weapon, sent or accepted a challenge to fight a duel with a deadly weapon, either within or beyond the boundaries of this State, or who has acted as second, or knowingly conveyed a challenge, or aided or assisted in any manner in fighting a duel, shall be allowed to vote or hold any office of honor, profit or trust under this constitution.

The Legislature shall provide by law for giving force and effect to this section.

All persons elected or appointed to any executive, legislative, judicial or ministerial office shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation :

OATH OF OFFICE.

"I, ———, do solemnly swear (or affirm) that I will support, protect and defend the Constitution and the Government of the United States and the Constitution and Government of the State of Virginia against all enemies, whether domestic or foreign, and that I will bear true faith, allegiance and loyalty to the same, any ordinance, resolution or law of any State, Convention or Legislature to the contrary notwithstanding; that I will freely accord to all men equal political and civil rights; and further, that I do this with a full determination, pledge and purpose, without any mental reservation or evasion whatsoever. And I do further solemnly swear (or affirm) that I have not been en-

gaged or concerned in a duel, as specified in section —, and that I will not be so engaged or concerned, directly or indirectly, in or about any such duel, during my continuance in office. And further, that I will well and faithfully perform all the duties of the office of ———, on which I am about to enter, (if an oath) so help me God, (if an affirmation) under the pains and penalties of perjury.”

Respectfully submitted,

SAM'L F. MADDUX.

REPORT

OF THE

COMMITTEE ON INTERNAL IMPROVEMENTS.

The Committee on Internal Improvements beg leave to submit the following report :

They have carefully considered the subjects to them referred, and have examined carefully the relations at present existing between the State and its internal improvements. They find that a large portion of the present debt of the State was contracted for the purpose of aiding the construction of its public works, and that in nearly every instance in which such aid has been extended the State has been a loser to a large extent, and that the bonds held by the State as indemnity for money or bonds loaned to assist in constructing her public works are to a great degree worthless, and that in all probability a large proportion is forever lost. They find that perhaps eight millions of dollars is held by the State, in bonds and stocks, that can probably at some early period be disposed of at about the same price at which bonds of the State are now selling, and that, by a prudent disposition of them, a like amount of the State debt could be cancelled, and thus an annual interest of four hundred and eighty thousand dollars saved to the State. They therefore recommend the incorporation into the constitution of the following provision :

“The general assembly shall provide, at as early a day as practicable, for the disposal of as much of the State’s interest in works of internal improvements as can be exchanged for an equal amount of the bonds of the State, and shall authorize and require the Board of Public Works to effect such conversion as rapidly as possible, and no money received from the sale of any bonds now held by the State shall be applied for any other purpose than the reduction of the debt of the State.”

They further recommend the adoption of the twelfth clause contained in the report of the Committee on Taxation and Finance, restraining the State from a further contraction of liabilities of this kind ; and also that the Board of Public Works shall consist of the Governor, Treasurer and Auditor, as provided by the 17th clause in the report of the Committee on the Executive Department.

F. A. WINSTON, *Chairman.*

REPORT
OF THE
COMMITTEE ON BANKING, CURRENCY
AND
INSURANCE COMPANIES.

The Committee on Banking, Currency and Insurance Companies having submitted a partial report, and having reserved the right to make such additions as they might in their judgment think proper, beg leave to submit the following additional provisions, and ask that they be laid on the table and printed :

1st. The General Assembly shall not grant a charter of incorporation to any bank, insurance company, trust company, or any other banking institution, with privileges to negotiate loans, buy and sell stocks, bonds, coin or other securities, or to do the business of a broker, or to discount paper, bills of domestic or foreign exchange, at a greater rate of interest than that fixed by law.

2d. No person who is a broker, or who deals in stocks, coin, bills of foreign or domestic exchange, or any other securities, or discounts paper, or loans money at a greater rate of interest than that fixed by law, in any manner whatever, or who is a State officer, or who receives a salary from the public treasury, literary or other funds of the State of Virginia, shall be allowed to hold any office, directorship, or clerkship whatever in any bank, trust and loan company, insurance company, or banking institution of any kind in the State of Virginia.

C. L. THOMPSON, *Chairman.*

Richmond, Va., Feb. 1, 1868.

REPORT

OF THE

COMMITTEE ON AGRICULTURE, INDUSTRIAL INTERESTS AND IMMIGRATION.

Your Committee, having felt the vast present and future public importance that necessarily attaches to the proper consideration of the material, varied and vital interests embraced within the scope of their inquiry, and how far, and in what form they could or should be incorporated into, or provided for in the organic law of the State, beg leave to submit, that they have not found the subject devoid of serious embarrassment.

In the first place, it is not always clear where to draw the line of demarcation between that which is essential, as fundamental law, and what should be left untrammelled to future legislative action, especially, in this progressive age. Yet, our State, owing to somewhat recent occurrences, which need not be especially particularized in this connection, demands an almost total reorganization; and our industrial and economic systems require radical changes or essential modifications.

Virginia, under the slave-labor system, was not driven to the husbanding of those seemingly minor sources of gain promotive of physical comforts, and the acquisition of moderate wealth, or that diversity of employment to which society, under the free-labor system, is accustomed as well as constrained to resort, and, which, in the aggregate, enhances greatly the general prosperity and common wealth.

Free States find their best interests subserved by the distribution of wealth, and not in its accumulation and concentration in the hands of the few. Monopolies are the bane of free communities, whilst paid, and especially educated labor, in every department of industrial life, is the strongest incentive to exertion and the surest pathway to the general happiness of the people in their individual and aggregate capacity.

Commerce and manufactures cannot thrive under compulsory toil, and even agriculture does not attain its highest development, in all its diversified departments, subject to that condition. Hence, it behooves the body politic, so far as may be justly done, to stimulate these enterprises, for in proportion as they prosper respectively, the general prosperity is assured, and the necessary requirements of the Government can be met.

To illustrate: The mineral resources of Virginia are so varied and exten-

sive as almost to startle belief, and our manufacturing facilities so great and conspicuous as to astound the most skeptical observer. Nature, indeed, has been most lavish in her choicest gifts to Virginia, independent of her fertile soil and genial clime, so that no State in the Union may hope to surpass us eventually; yet, how little has all this bounteousness of the Creator availed us? It becomes us, therefore, without delay, particularly in our present condition, to remove every barrier and provide every facility to render them practically useful and remunerative.

Another subject of the utmost public concern, at this juncture, is that of immigration. This should be regulated, in some measure, in the organic law, and not left entirely to chance legislation, for, if properly directed and fostered, it will speedily become a public blessing. Educated labor is essential to our prosperity, and is especially needed at the present time from whatsoever quarter it can be obtained, and every reasonable security should be extended to its protection by our people. Not one-fourth of our land is in actual cultivation, and much of it is tilled in a very defective manner. Our past method of culture has been too often one of exhaustion instead of improvement, whilst our minerals have lain dormant in mother earth for ages past, and our inland and foreign commerce languished, or was conducted by strangers, who, moreover, withdrew from us those resources and profits that should have been kept among us or enured to our own people. But, in order to draw the most desirable population to our shores, we must do as others have done before us who succeeded in the experiment, and by a liberal and enlightened policy, and suitable laws, induce them to come. Immigrants, as a general thing, have comparatively limited means; skillful hands and stout hearts may be their portion, but being peculiarly liable to fraud and imposition, it is necessary that such legislation shall be had, from time to time, as shall, as far as may be, prove a shield for their inexperience; especially, do we think, that if a homestead were protected beyond peradventure against any unforeseen future liabilities, it would be a strong guarantee to new comers against undue oppression, and would be consonant with the present wants of our own people, and entirely consistent with an enlightened humanity and the spirit of the age.

The subjects submitted to us being, *in some sense*, cognate to each other, and although in certain respects anticipated by another standing committee of this Convention, we have incorporated our views in the following, which we hope, may to some extent, meet with your approbation and concurrence:

ARTICLE —

IMMIGRATION, INDUSTRIAL INTERESTS AND AGRICULTURE.

SECTION 1. There shall be a Board of Immigration, Industrial Interests and Agriculture, to consist of three commissioners, whose term of office shall be four years; one of whom shall be known as the Superintendent of said Board, and the other two as assistant superintendents.

SEC. 2. The Superintendent of the Board of Immigration, Industrial Interests and Agriculture, shall be elected by the General Assembly and receive such annual compensation as may be provided by law. The assistant superintendents shall be appointed by the Governor, with the advice and consent of the Senate, receive a *per diem*, to be fixed by the General Assembly, during their actual attendance upon said Board, and for the time occupied in going to or returning from the sessions of the same.

SEC. 3. The Board shall not meet oftener than quarterly and then only when the Governor shall require them so to do.

SEC. 4. The Superintendent shall, from time to time, submit such information to the Board as is hereinafter provided.

SEC. 5. The Board may, from time to time, elect such assistants to the Superintendent, and make such publication as may be expedient, and for which provision may have been previously made by the General Assembly.

SEC. 6. It shall be the duty of the Superintendent to collect and arrange statistical information concerning the productive industries of the State, and to make, or cause to be made, a careful account and thorough report, upon the number, occupations and nationalities of emigrants to this State, whether from other States of this Union or from Europe. Such report shall embrace, as nearly as practicable, the sex, ages and pecuniary condition of such immigrants; also their producing, mechanical or manufacturing capacities or adaptations, and in what proportion they are dispersed throughout the various sections of the State. Said Superintendent shall, furthermore, procure all information within his reach, touching the varied products, manufactures and mineral resources of the State, and the progress of the physical, scientific developments and explorations as, in his judgment, appertain to the material well-being of the State.

SEC. 7. The assistant superintendents shall act advisory merely, except in the selection of assistants, and the publication of matter in the interim of the sessions of the General Assembly.

SEC. 8. The Superintendent shall, ten days prior to each session of the General Assembly, file a report of all matters coming within the scope of his inquiry officially, in the office of the Secretary of State, and suggest such legislation, as in his judgment, may conduce to the advantage of the Commonwealth in the interests he is intended to subserve: provided, said assistant superintendents, or either of them, may, if they deem proper, make such other or additional report, and file the same in like manner, for the information or guidance of such General Assembly, but without compensation therefor.

SEC. 9. The Secretary of State shall provide and transmit duplicate copies of such report or reports, for the use of both Houses of the General Assembly, within five days after their organization respectively.

SEC. 10. Said Board may provide for the procurement of such further information, by statistics or otherwise, in such manner as may be prescribed by law, touching the above or kindred subjects, or pertaining to commerce, trade, surveys, etc.

"In conclusion, your committee, at this time, beg leave to submit the foregoing views on these several subjects, reserving to themselves the privilege of recommending to the Convention any action that a further investigation and fuller reflection on these very important matters may cause them to think proper and advisable."

Respectfully submitted,

ANDREW MILBOURN, *Chairman.*

REPORT

OF THE

COMMITTEE ON PRIVILEGES & ELECTIONS.

To the Honorable the State Constitutional Convention of Virginia :

The Committee on Privileges and Elections ask leave to submit the following report, in addition to the one heretofore made, in the case of Fayette Mauzy, who holds a seat in the Convention as the delegate from Culpeper county :

The previous report gave a statement of the facts, but did not arrive at any specific conclusion. (See printed Doc. No. 12.) There was only one reason, however, which prevented a majority of the committee from deciding at that time that Mr. Mauzy was ineligible to his seat, and that was, that the evidence did not, in their opinion, clearly and positively show that he voted for the ratification of the ordinance of secession. Subsequently, and before the report had been acted on by the Convention, further than to formally receive it, the chairman of the committee, having learned of the existence of further proof as to the character of the vote cast by Mr. Mauzy on the occasion referred to, the report, on motion of General White, a member of the committee, was recommitted to them, and afterwards evidence was given before the committee which establishes the fact that Mr. Mauzy voted for the ratification of the ordinance of secession. (See testimony of J. M. Wood, herewith transmitted.)

Mr. Mauzy has been clerk of the county court of Culpeper county for the past twenty-nine years, with but very little, if any, interruption. (See printed Doc. No. 12, page 84.)

He first qualified as such on the 20th day of May, in the year 1839, and "took the several oaths prescribed by law." (Same.)

As the laws of Virginia at that period required officers generally, including county clerks, to take the oath to support the Constitution of the United States, no doubt can arise that such oath was taken by Mr. Mauzy at the time he qualified for said office, neither has it been suggested on his part that any such omission occurred.

Subsequently, in the year 1861, Mr. Mauzy voted for the ratification of the ordinance of secession, as already stated.

The question is, whether the concurrence of these two facts is sufficient, in law, to render Mr. Mauzy ineligible to a seat in the Convention.

The 5th section of the act of Congress "for the more efficient government of the rebel States, passed March 2, 1867," provides that no person excluded from the privilege of holding office by the proposed article to the Constitution of the

United States, and known as article 14, shall be eligible to election as a member of the Convention, nor shall any such person vote for members of such Convention.

The 3d section of said article provides that no person shall be a Senator or Representative in Congress, or elector of President or Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid and comfort to the enemies thereof. In the first place, let it be determined whether the person holding the office of county clerk is an "executive or judicial officer" of the State within the meaning of this section.

It has been asserted, in support of the eligibility of Mr. Mauzy, that "an executive officer is one who is entrusted with some power or discretion in the execution of the law," and that "a ministerial officer is one who must execute the law in a particular prescribed mode, having no discretion." It is then assumed, or taken for granted, that a clerk of a county court comes within the latter class.

For the purposes of this case, these definitions may be accepted as correct, and none could be given which could be more favorable to Mr. Mauzy's claim of eligibility than these.

Now, as "an executive officer is one who is entrusted with some power or discretion in the execution of the law," if it can be shown that a clerk of a county court has any power or discretion in the execution of any of the duties enjoined upon him by law, then he must certainly be regarded as an executive officer, though it is not disputed that in many respects he is to be classed as a ministerial officer.

The laws of Virginia furnish numerous instances in which the clerk of a county court is clothed with discretionary powers in the execution of the law. For example: By Chapter 163, section 11, of the Code, it is provided that "none of the records or papers of a court shall be removed by the clerk, nor allowed by the court to be removed, out of the county or corporation wherein the clerk's office is kept, except on an occasion of invasion or insurrection, where, in the opinion of the court, or in a very sudden case, of the clerk, the same will be endangered, after which they are to be returned so soon as the danger ceases."

Here it is manifest that in a certain contingency the records and papers of the clerk's office may be removed from the county or corporation, upon the *judgment* of the clerk that the emergency exists which the law contemplated.

But again, these papers are subject to recall by the clerk, especially if the court should not be in session when the menacing circumstances which induced their removal shall have disappeared. Here again the exercise of judgment and discretion on the part of the clerk, and in no small degree, is called into action. Where an order of publication is entered, and the court does not prescribe the newspaper in which it is to be published, the clerk makes the selection according to his own discretion. (Code, Chap. 170, Sec. 11.)

By Acts of the General Assembly the Commissioner of the Revenue for each county is required to deliver copies of his land-book and personal-property-

book, together with such lists as he may have taken from individuals, to the clerk of his county court for examination. The clerk is required to compare each copy of the land-book with the land-book of the preceding year, with the records of his office, *where necessary*. (Code, Chap. 35, Sec. 80.)

He is also required to compare the book of personal property with the lists taken by the Commissioner from individuals, and examine the same *in such other way as the records of his office and his information will enable him to do*. (Sec. 81.)

The clerk is also required to point out to the Commissioner such errors, *as in the opinion of the clerk*, may exist in any of the books. (Sec. 82.)

It is further required of him that when all the columns of the property-book have been added up, as required by a previous section, he shall make such certificate as the result of his examination will justify. He shall state whether the book *appears to him to be correct*, or whether it *appears to be incorrect or carelessly made out*. (Sec. 84.)

It is submitted that these statutory provisions abundantly establish the proposition that the clerk of a county court is "entrusted with some power or discretion in the execution of the law," and is accordingly an executive officer of the State. He is also frequently required to act in a *judicial capacity*—to interpret the law according to such guides as he may have.

One or two instances will suffice. In the examination of the books of the Commissioner of the Revenue, every error pointed out by the clerk to the Commissioner shall be corrected, when they concur as to the propriety of such correction. *When they differ, the matter in difference shall be submitted to the Commonwealth's Attorney, and they shall conform to his decision*. (Code, Chap. 35, Sec. 82.)

It is difficult to distinguish this from a question coming before a bench of three magistrates, two of whom differ, and the opinion of the third one, of course, determines the question. Or perhaps a more apt illustration would be the case of an umpire called in by two arbitrators to decide a matter in regard to which they could not agree.

In relation to the bond that may be given by a fiduciary, the duty is imposed upon the clerk of determining whether it is defective. (Code, Chap. 132, Sec. 2.)

Another instance of the high discretionary power of this officer, and which is utterly inconsistent with the proposition that he is merely a ministerial officer, is to be found in the provision that the clerk of a county court may appoint a deputy, with the consent of the court, but who *may be removed from office either by the clerk or court*. (Code, chap. 163, sec. 8.)

The next question to be considered is, whether Mr. Mauzy is to be regarded as having engaged in the rebellion against the United States, or as having given aid and comfort to the enemies thereof, by voting for the ratification of the ordinance of secession.

The election in which this vote was cast occurred on the fourth Thursday in May, 1861. At this period ten, or nearly ten, Southern States were waging war against the United States. The "Star of the West" had been fired into, while on its way to relieve a famishing garrison. The American flag had been stricken to the ground at Sumter, and other acts of violence and war had been perpetrated against the Government. In voting for the ratification of the ordi-

nance Mr. Mauzy pronounced himself in favor of removing the Government of Virginia from and out of the jurisdiction of the United States, and it was a majority of votes of this character that accomplished the purpose, and placed her under the jurisdiction of another Government; and that other Government, with Virginia as an integral part of it, doing its utmost, for four long years, to overthrow the Government of the United States. Mr. Mauzy, in conjunction with others, deliberately and intentionally placed Virginia on the side of, and with, the avowed enemies of the United States; for it is a well established principle that a person must be presumed to have intended the necessary consequence of his own act.

It would be difficult to conceive of a higher form, both of engaging in the then existing rebellion and giving aid and comfort to the rebellious States, than placing Virginia among them, by the ratification of the ordinance.

Attorney-General Stansberry, in the first opinion which he furnished the President in relation to the proper construction of the Reconstruction Acts of Congress, declared that there could be no higher or more distinct act abnegating one's allegiance to the Government, than voting for the ordinance of secession in Convention. There can be no good reason why the principle does not apply to one who voted for its ratification at the polls.

There is no evidence that Mr. Mauzy voted involuntarily, or under moral duress. He does not even claim that such was the case. If he had, and his general conduct after the suppression of the rebellion in the quarter where he resided, had been in harmony with loyal and patriotic professions of devotion to the country, it would have probably had great weight with the committee.

But it is claimed by Mr. Mauzy that no proof is competent to show that he voted for the ordinance of secession *less* than the record of his conviction, before a jury, for treason, (Doc. No. 12, page 102) and refers to the definition of treason as contained in the Federal Constitution. That instrument provides, that "treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court." (Article III, sec. 3.)

If the late rebellion, instead of spreading through one-third of the States of the Union, had been confined to a comparatively few individuals, and quickly put to flight, there would be no question that the captured rebels would be entitled to a trial before a court and jury, and the full benefits (and none less) of the provisions of the Constitution, including the section referred to. But a rebellion of the gigantic proportions of that which has been recently overthrown—the suppression of which made, for years, a constant drain on the blood and purse of the people, and required the putting forth of the best energies of the Government—must be considered as entitling the Government to treat those engaged in it as conquered enemies.

It is in this character that they are regarded by the proposed Constitutional Amendment and the Reconstruction Laws of Congress. As such, the legislative branch of the Government may prescribe laws for them. It may enfranchise classes of people in their midst, or it may disfranchise and exclude from office any portion or all of the conquered enemy.

The United States being a nation, looks to the laws of nations for her justification in exercising the powers which belong to a conquering party. To

deny her right to avail herself of the laws of nations, would be equivalent to the assertion of the absurd proposition that the United States is not a nation.

Nor is the Government precluded from treating them as traitors, in which case, they are entitled to the trial contemplated by the Constitution, and which Mr. Mauzy claims he is entitled to, before the National Legislature can legally exclude him from office, or in any way impair his rights.

In a word, the Government may treat the people of the South, who have been engaged in the rebellion, as conquered enemies, or as traitors, or as both.

It is also claimed by Mr. Mauzy, that he is entitled to the benefit of "the Amnesty Proclamation of the President, of the 29th May, 1865," whereby, he claims, "even if it could be shown that he committed treason against the United States, that he was completely and forever purged of said offence, and relieved from all penalties and forfeitures arising therefrom." (Doc. No. 12, page 102.)

This might be true if the Government was proceeding against Mr. Mauzy as a traitor, under the section of the Constitution which has been cited, but the proceeding is against him as a subjugated enemy, and the regulation of the entire matter is under the control of the law-making, and not the executive, department of the Government, or, to more fully express the sense of the committee, they cannot assent to the proposition which seems to be implied in the declaration that no class of citizens, as a class, can be held guilty of having committed any offence, unless that fact shall have been previously ascertained by a regular trial and conviction. The question as to what is the status of political communities, or a portion thereof—as to what relations they sustained towards the Government of the United States, is a *political*, not a judicial question, and is to be determined by the proper political authority. Whether the people inhabiting the ten unreconstructed States were in a state of peace or of war towards the United States, and whether they were foreign or domestic enemies, are questions which, from the necessity of the case, the Legislative Department of the National Government must take cognizance of, as matters of fact of general notoriety, and as part of the concurrent history of the day. It takes cognizance of acts of rebellion, and determines the fact of rebellion, as governments do that of invasion.

When civil war ensues, or when a foreign foe has invaded the soil, self-preservation and the law of imperious necessity require prompt action on the part of those who would successfully repel the one or suppress the other. The fact that the President of the United States has pardoned before trial and conviction, classes and individuals by proclamation of amnesty, shows that the fact of rebellion may be ascertained and determined otherwise than by judicial trial and investigation. It must be first ascertained that the particular individual, or class of individuals, have done *something* to be pardoned for; hence, the exercise of the pardoning power before trial and conviction, pre-supposes, not only a determination of the question whether a political offence has been committed, but also of the *right* of the party exercising the pardoning power to decide such fact otherwise than by an investigation before the judicial tribunals. It is not to be supposed that the Executive would insult a citizen by offering a pardon, if such citizen *had not*, in his opinion, committed some offence.

His amnesty proclamations, therefore, prove that, *in his opinion*, certain classes and individuals inhabiting the United States had committed offences against the United States, and thereby rendered themselves subject to pains and penal-

ties. He so decided, upon his *own individual judgment and responsibility*, and in thus acting clearly evinced that, in *his opinion*, it was competent for him to decide who had engaged in rebellion; and that *he* had a right so to decide, although there had been no previous determination thereof by judicial trial and investigation of the matters of fact involved therein. But independently of this, it is expressly provided by act of Congress that no person shall be entitled to be registered, or to vote, by reason of any Executive pardon or amnesty for any act or thing which, without such pardon or amnesty, would disqualify him from registering or voting." (Reconstruction Act, July 19, 1867.) It is claimed that this clause of the law is unconstitutional, and it is insisted that the Supreme Court have virtually so decided, in *ex parte* A. H. Garland, reported in 4 Wallace, 380.

In July, 1862, Congress passed an act prescribing an oath of office, to be taken by every person thereafter elected or appointed to any office under the Government of the United States. On the 24th January, 1865, a supplementary act was passed, extending its provisions so as to embrace attorneys and counsellors of the courts of the United States. Garland participated in the late rebellion, but was pardoned therefor by the President in July, 1865. Subsequently, he produced his pardon, and asked the Court to permit him to continue to practice as an attorney and counsellor of the Court (having been duly admitted as such at the December term of 1860) without taking the oath required by the act of January 24, 1865.

The court granted the prayer of the petitioner, and, among other things, it was said that the clause of the Constitution which provides that the President "shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment," conferred unlimited power, with the exception stated, that it extended to every offence known to the law, and may be exercised at any time after its commission, either before legal proceedings are taken, or during their pendency, or after conviction and judgment. This power of the President is not subject to legislative control; Congress can neither limit the effect of his pardon, nor exclude from its exercise any class of offenders. As to the effect of the pardon the court say, "a pardon reaches both the punishment prescribed for the offence, and the guilt of the offender, and when the pardon is full, it releases the punishment and blots out of existence the guilt, so that in the eye of the law the offender is as innocent as if he had never committed the offence. It makes him as it were a new man, and gives him a new credit and capacity." Broad as this language is it must, of course, be confined in its application to the facts in the case before the court. And so regarding it, it will be found to simply decide that any attorney and counsellor of the Supreme Court of the United States, who should have participated in the rebellion, and afterwards received the *special* pardon of the President, will not be required to take the oath prescribed by the Act of January 1865, in order to practice in said court.

It is a legal maxim that "the authority of a judicial decision is co-extensive only with the *facts* upon which it is made."

There is nothing, in the opinion of the court, which can be construed as authorizing a person disfranchised by the Acts of Congress, to register and vote, by virtue of the Executive pardon.

Neither has it been so understood, for if this decision went to the extent which has been claimed for it before the committee, no one who held a special

pardon, or came under any proclamation of amnesty, could have been legally disfranchised, or rendered ineligible to office on account of having participated in the rebellion, by any of the Reconstruction Laws which were afterwards passed. In a word, it would have made a legal voter of, and rendered eligible for office, every person whom the laws of Congress had declared to be disfranchised and disqualified to hold office, provided only, that they could produce the pardon of the President, or show that they were included in any Executive amnesty. Even the President has not undertaken to extend the opinion of the court beyond the particular facts in the case in which it was delivered.

If the decision went to the extent claimed, it would be the privilege and the duty of the Executive to direct the Military Commanders of the several Districts of the South to place on the lists of registration all persons desiring to be registered, but who would be prevented from so doing, and consequently disfranchised but for the Executive pardon or amnesty. Can it be doubted that the President would have long since pursued this course, if it had been authoritatively decided by the Court that legislation on the part of Congress controlling or restricting the power of the President to grant pardons, or the effect of them, was repugnant to the Constitution, and therefore void?

The committee have been asked, in arguments presented with great ability, to decide, in advance of the determination of the Judiciary, and in opposition to the official action of the Executive, that no valid disfranchisement exists, to any considerable extent, and thus strike a blow at the very ground-work upon which your body was brought into existence. Far-reaching and radical as such a decision would prove to be, if confirmed by the Convention, it is due to your committee to state that they would not hesitate to decide in that way, if they were *satisfied* that the Reconstruction Laws of Congress, or any portion thereof, were in conflict with the Constitution of the United States. It is a rule, recognized in all the books, that the acts of the Legislature, Federal or State, are presumed to be in conformity with the Constitution, and the Courts will not pronounce a statute *unconstitutional*, except in a plain and palpable case of conflict between it and the organic law. But your committee entertain no doubt whatever of the constitutionality of the enactments in question, and for reasons which have been previously assigned in this report.

From the consideration of the evidence in the matter of the eligibility of Mr. Mauzy, and the examination of the grave legal and constitutional points which have been raised, your committee report that they find him ineligible to occupy his seat in the Convention.

The question now arises whether his competitor in the canvass is entitled to the seat. His opponent was Mr. John M. Botts, who received sixty votes less than were cast for Mr. Manzy, (Doc. No. 12, p. 101). In regard to a matter of this kind, the rule appears to be that, where a plurality elects, as under the Reconstruction Laws, and the electors must have known that they were casting their votes for an ineligible candidate, they are to be treated as thrown away, and the candidate having the next highest number of votes is elected. Your Committee do not consider it at all necessary to inquire whether the electors of Culpeper county, or any number of them, who voted for Mr. Mauzy, are to be regarded as having cast their votes for one whom they knew, or even had good reason to believe, was ineligible, as Mr. Botts has never claimed the seat. It is believed that no case can be found in the English Parliaments, for the past two hundred years, which has awarded the seat of the ineligible candidate to the one receiving the next highest vote, unless the seat was claimed by him. There

are numerous cases where the person receiving the next highest vote, and claiming the place of his successful, but disqualified rival, has received it. But, in cases where the seat of the disqualified candidate has not been claimed by his opponent, Parliament has simply declared the election void, without undertaking to admit the other party. In this country, too, there seem to be no precedents that would justify the admission of Mr. Mauzy's competitor, he making no claim to the seat; and your Committee would accordingly report against any further action being had in the matter.

Before concluding, it is proper to state that a minority report will be made in this case.

The Committee recommend the adoption of the following resolution by the Convention :

Resolved, That Fayette Mauzy was, at the time of his election, ineligible to a seat in the Convention, and that he is not entitled to hold the same.

Respectfully submitted,

Dated February 1, 1868.

CHARLES H. PORTER, *Chairman*.

TESTIMONY OF MR. JACQUELINE M. WOOD.

Mr. J. M. Wood, being duly sworn, deposes and says as follows :

Question by the chairman.—State where you resided in and prior to the year 1861?

Answer.—I lived at Culpeper court-house from 1849 until 1863, but was a resident of the county for several years previously.

Question.—Were you present at any precinct when the vote was taken, in 1861, upon the ratification of the ordinance of secession in Culpeper county?

Answer.—I was.

Question.—In what capacity?

Answer.—As conductor of the election in the court-house precinct.

Question.—Were you acquainted with Mr. Fayette Mauzy?

Answer.—I was.

Question.—How long have you been acquainted with him?

Answer.—Probably for fifteen (15) years before the war.

Question.—Do you recollect whether or not he voted at that election?

Answer.—My recollection is that he did vote.

Question.—How, or which way, did he vote?

Answer.—He voted for the ratification of the ordinance of secession. No one voted against the ratification at that precinct, or in the county.

Question.—Do you remember any circumstances connected with his voting, and if so, state them?

Answer.—My recollection of the matter is this : that Mr. Mauzy belonged to the Bell and Everett party, and was very decided in his opposition to secession when the thing was first mooted, and when he came in and offered his vote for the ratification, the secession Democracy, considering it as an acquisition to their party, cheered him. I think he changed from being a Union man at the time the Convention passed the ordinance.

Question.—What was the political status or sentiments of Mr. Mauzy subsequently to casting said vote, so far as you were acquainted with them?

Answer.—From all I saw of him, the conclusion I came to was, that when he decided to go into secession, he went in with his whole heart. I do not think I knew of any one whose hatred to the United States Government was greater. His sympathies were apparently entirely with the Southern rebellion. He had a minor son who enlisted and served in the Confederate army. I never knew of Mr. Mauzy's endeavoring to procure his release.

Question by Mr. Walton.—State what were the sentiments and what was the action of Mr. Mauzy up to the time the vote was taken on the ordinance, in reference to the question of union or disunion?

Answer.—As I before stated, I regarded him as a Union man up to the passage of the ordinance by the Convention. His opposition to the Union after that was very decided.

Question.—State whether the war had not commenced and progressed to some extent when the vote on the ordinance was taken?

Answer.—There were two companies of Confederate soldiers stationed at the court-house at that time, and paid by the Confederate States Government. Sumter had been captured and Harper's Ferry taken before the ordinance was voted on at the polls.

Question.—State what was the state of public feeling in Culpeper county at that time upon the subject of secession?

Answer.—I think the majority voted for the ratification willingly. There were a few who would have voted against it if they had dared. I would have voted against the ratification myself if I had dared to. I heard threats made by officers connected with the military companies before referred to, of violence and death to any one who should vote against it. I would state further, as a circumstance showing the state of public feeling at that time, that Mr. Wallack, who was editor of the *Washington Star*, came to Culpeper court-house and endeavored to make a speech in opposition to secession. Some of the crowd interrupted him and made a movement towards him. I was Deputy Sheriff and interfered, and thereby protected him. The feeling and opposition were so strong against his views, that he was not permitted to finish his speech, or even proceed far. Mr. Wallack's residence was about a mile from the court-house.

Question.—State whether, in your opinion, from the knowledge you had of the feeling and sentiment in Culpeper county at that time and afterwards, Mr. Mauzy could have held office, or remained with any degree of comfort in that community or county, if he had voted against the ordinance of secession?

Answer.—I expect he would have lost his office at the next election, if not before, but I do not think violence would have been offered him. But this I attribute entirely to the circumstances of his standing in society; also being a slaveholder and connected with a numerous family.

Question.—What is your present occupation?

Answer.—I am United States Assessor of the Fifth Collection District, and living at the city of Lynchburg.

Question by the Chairman.—What, in your opinion, would have been the consequences to him, if any, if Mr. Mauzy had refrained from voting at all?

Answer.—I do not think there would have been any consequences of a serious nature. It would have merely created some talk for a few days, and any excuse he had made would have been accepted.

Question by Mr. Walton.—Occupying the public position, as he did, of clerk of the court, and having been a Union man previous to the election, would not this failure to vote have subjected him to suspicion of unsoundness and disloyalty to the then dominant sentiment and feeling in his county, and made his position in the community a very undesirable one?

Answer.—It would have subjected him to suspicion, but whether it would have rendered his position an undesirable one, depends upon the man. It would not be undesirable to all men.

Question by the Chairman.—State whether you have ever heard Mr. Mauzy express himself in regard to the question of secession; and, if so, state what he said, and when and where the conversation occurred?

Answer.—I heard him say, that though having opposed secession in the outset, that now we were in it he was for fighting it out to the bitter end. This was during the war, probably in 1863, at the Courthouse. I know of no act committed by Mr. Mauzy in favor of the rebellion, other than voting for the ratification of the ordinance, and his son being in the army—provided Mr. Mauzy was responsible for that.

The testimony of Mr. Wood here closed.

(Signed)

J. M. WOOD.

JANUARY 22, 1868.

P E T I T I O N
OF
C I T I Z E N S O F M A T H E W S C O U N T Y
IN R E L A T I O N T O T H E
C O L L E C T I O N O F T A X E S.

To the Convention of the State of Virginia :

The petition of Daniel H. Foster, Thomas M. Hunley, Matthew Gayle, John H. Dunlavy, Shepard G. Miller, Richard W. Marchant, Lemuel James, Thomas Smith, and Chaplin B. Diggs, of Mathews County, respectfully represents—

That, at the ——— term of the County Court of Mathews County, 1865, one John H. Diggs, of the said county, qualified as the Sheriff of the County of Mathews, and then executed his official bond with your petitioners as his sureties therein. The said John H. Diggs, afterwards, in accordance with the provisions of the law in such case, entered upon the duties of the office of Sheriff in the said county. Your petitioners further show, that when the said John H. Diggs became such Sheriff, and during his term of office, the means of the people of the said county had been very much reduced, and many of the people were impoverished by the losses of property and stoppage of business resulting from the late war. During several years of the period of the war no taxes or levies were collected in Mathews county, and in the summer of 1866, the County Court of the County made a levy, which was intended not only to meet the expenses of the current year, but, also, to cover the expenses of the county in several previous years. The levy thus made was not on persons and property, but on persons alone, and amounted to five dollars and seventy-one cents per head. This heavy tax, in addition to the State tax, was extremely burthensome to the people, and created very great dissatisfaction among them, so much so, that many refused to pay the taxes, and a weighty public opinion sustained them in their refusal. Public meetings were held on the subject, and the Sheriff and his deputies were unable to do their duty in promptly collecting the taxes. In this state of things, repeated applications were made to the United States military authorities to interfere on the subject, and several orders were made by military officers on the subject of the taxes and levies; and, although no order was made stopping the collection of the taxes, yet, such an order was expected to be made, and the collection of the taxes was thus made still more difficult. It is a fact, that owing to the presence and interference of the military, and the fact that the habitual respect for and obedience to the State law had been much weakened among the people, it was almost, if not quite, impos-

sible for the Sheriff to collect the taxes or return a list of insolvents to the Court, in accordance with the requirements of the law.

Your petitioners further represent, that in the state of things above set forth the said John H. Diggs departed this life, and his wife, Mary C. Diggs, became his personal representative. On looking into the affairs of the sheriffalty, your petitioners found that the Sheriff was in arrears for the State taxes due from the Sheriff of Mathews, in a large sum of money, and that no list of insolvents had ever been returned by the Sheriff to the Court of the county. Your petitioners have had a collector appointed by the administratrix of the said late Sheriff, who has proceeded to collect all the arrears of taxes which he could collect, and have caused a list of insolvents to be returned to Court, but this list, so returned, was not allowed by the Court or certified, objection having been made on the ground that the list of insolvents had not been returned in time. The estate of the said John H. Diggs is not sufficient to meet the amounts due from it, and, consequently, your petitioners will be compelled, in the absence of any relief to pay the deficiency, at a heavy loss to all, and, perhaps, to the ruin of some of them. This loss would ensue from no fault of your petitioners, but from causes beyond their control, and which could not have been prevented by any degree of prudence or diligence of the Sheriff.

Under these circumstances, your petitioners pray that they may be relieved by the action of your body, and to this end, that the return of insolvents made by the representative of the Sheriff, for the years 1865 and 1866, may be legalized in the same way and to the same extent as if the same had been returned within the time fixed by law; that the said Sheriff's estate may have credit for all insolvents, as against the balance due from him for the State taxes and county levies, and that your petitioners may be relieved from their liability as sureties of the said John H. Diggs, on account of the State taxes for the years 1865 and 1866. And, as in duty bound, your petitioners will ever pray, &c.

Signed by T. M. HUNLEY, on his own behalf, and for the other securities in our presence.

WINSLOW FOSTER,
FRANCIS ARMISTEAD,
ALEXANDER MARCHANT,
T. M. HUNLEY,
R. M. MARCHANT,
LEMUEL JAMES,
J. H. DUNLAVY,
S. G. MILLER,
CHAPLIN B. DIGGS,
DANIEL H. FOSTER,
MATHEW GAYLE,
THOMAS SMITH.

REPORT
OF
THE COMMITTEE
ON
CORPORATION AND COUNTY COURTS,
AND
COUNTY ORGANIZATIONS.

AN ORDINANCE *for the Government of Counties of the Commonwealth of Virginia.*

ARTICLE —.

COUNTY ORGANIZATIONS.

SECTION 1. In each county of the State there shall be elected or appointed :

One County Judge,

who shall hold the county court thereof, with such criminal and civil jurisdiction as shall be fixed by law ;

One Sheriff ;

One Attorney for Commonwealth,

who shall also be the commonwealth's attorney for the circuit court ;

One County Clerk,

who shall also be the clerk of the circuit court, except that in counties containing twenty-five thousand inhabitants, there may be a separate clerk for the circuit court ;

One County Treasurer ;

One Superintendent of the Poor ;

One Superintendent of Schools :

Provided, That counties containing less than eight thousand inhabitants, may be attached to adjoining counties, for the formation of districts for superintendents of schools and county judges : Provided also, That in counties containing thirty thousand inhabitants, there may be appointed an additional superintendent of schools, and an additional judge, to hold courts of probate and record separate from the county courts, and perform such other duties as shall be prescribed by law.

All regular elections for county officers shall be held on the first Tuesday after the first Monday in November, and all officers elected or appointed under this provision shall enter upon the duties of their offices on the first day of January next succeeding their election, and shall hold their respective offices for the term of three years, except that the county clerk shall hold his office for four years.

TOWNSHIPS.

SEC. 2. Each county of the State shall be divided into so many compactly located townships as may be deemed necessary, not less than three : Provided, That after three have been formed, no additional township shall be made, containing less than thirty square miles.

Each township shall be known as the township of _____, in the county of _____, and may sue and be sued by such title.

In each township there shall be elected annually :

One Supervisor,
One Township Clerk,
One Assessor,
One Collector,
One Commissioner of Roads,
One Overseer of the Poor,
One Justice of the Peace,

Who shall hold his office three years ;

One Constable,

Who shall hold his office three years : Provided, that at the first election held under this provision there shall be three Justices of the Peace and three Constables elected, whose terms shall be one, two and three years, respectively.

All regular elections for township officers shall take place on the fourth Monday in May, and all officers so elected shall enter upon the duties of their respective offices on the first day of July next, succeeding their election.

The Supervisors of each county shall constitute the Board of Supervisors for that county, and shall assemble at the Court-house thereof on the first Monday in December, in each year, and proceed to audit the accounts of said county, examine the books of the Assessors, regulate and equalize the valuation of property, fix the county levies for the ensuing year, apportion the same among the various townships, and perform such other duties as shall be prescribed by law.

SCHOOL DISTRICTS.

SEC. 3. Each township shall be divided into so many compactly located school districts as may be deemed necessary : Provided, that no school district shall be formed containing less than one hundred inhabitants.

In each school district there shall be elected or appointed annually :

One School Director.

ROAD DISTRICTS.

SEC. 4. Each school district shall be divided into one or more road districts. In each road district there shall be elected annually :

One Overseer of Roads,

Under whose direction the roads shall be kept in repair, all of the property in

said road district being taxed equally for that purpose, which taxes may be paid in money or labor, at the option of the persons so taxed: Provided, that no capitation tax exceeding one day's labor shall be levied for keeping the public roads in repair.

SEC. 5. The General Assembly shall prescribe by law the duties, and fix the salaries, of all officers enumerated in this article, at its first session after the adoption of this constitution, and provide for carrying it into effect. But nothing in this article shall be construed as prohibiting the General Assembly from providing by law for any additional officers in any city or county.

SEC. 6. No township or county officers shall hold more than one office at the same time, except that a constible may be the collector of his township, and any officer may hold either the office of School Director or Overseer of Roads.

AN ORDINANCE *for the Government of Cities and Towns in the Commonwealth of Virginia.*

ARTICLE I.

In each city or town in the State, containing a population of eight thousand (8,000) there shall be elected by the qualified voters of said city or town,

One City Judge,

Who shall hold a Corporation or Hustings Court of said city or town, as often, and as many days in each month, as may be prescribed by law, with similar jurisdiction which may be given by law, to the Circuit Courts of this State, and who shall hold his office for a term of six (6) years: Provided, that in cities or towns containing thirty thousand (30,000) inhabitants, there may be elected an additional judge to hold Courts of Probate and Record, separate and apart from the Corporation or Hustings Courts, and perform such other duties as shall be prescribed by law.

ARTICLE II.

One Clerk of the Corporation or Hustings Court,

Who shall also be the clerk of the Circuit Court, except in cities or towns containing a population of thirty thousand (30,000) or more, in which city or town there may be a separate clerk for the Circuit Court, who shall hold his office for a term of six (6) years.

ARTICLE III.

One Commonwealth's Attorney,

Who shall be the Commonwealth's Attorney for the Circuit Court, and shall hold his office for a term of four (4) years.

ARTICLE IV.

One City Sergeant,

Who shall hold his office for the term of four (4) years, and shall not be re-eligible to office for four (4) years.

ARTICLE V.

One City or Town Treasurer,

Whose duties shall be similar to those of county Treasurer, and shall hold his office for a term of three (3) years.

ARTICLE VI.

Each city containing eight thousand (8,000) or more inhabitants, shall be divided into four (4) or more compact wards, and for each ward there shall be elected by the qualified voters of the entire city or town,

ARTICLE VII.

One Alderman, Ex-officio Justice of the Peace.

Who shall hold his office for a term of three (3) years.

ARTICLE VIII.

One Constable,

Who shall hold his office for three (3) years; Provided, that at the first (1st) election held under this provision, there shall be elected three (3) Aldermen, ex-officio Justices of the Peace, and three Constables, whose terms of office shall be one (1), two (2) and three (3) years respectively, to be decided by ballot. The said Aldermen shall have jurisdiction of all cases at law, where the amount in controversy does not exceed one hundred (100) dollars; Provided, that in all cases where the amount exceeds ten (10) dollars, there shall be a removal of the case on the application of either party, an appeal shall be granted to any party in any action where the amount in controversy, or the fine imposed, amounts to or exceeds one (1) dollar and costs.

The said Aldermen shall hold a monthly court, which court shall be held by three (3) of said Aldermen, and may continue in session for one (1) week—the said court to consist of only one (1) Alderman from the same ward, which court shall have jurisdiction over all cases of unlawful detainer, all appeals from the decisions of a single Alderman, the taking of official bonds, the granting of licenses, letters of administration, probate of wills, and the auditing of all accounts against the Commonwealth.

ARTICLE IX.

The Judge of the Corporation Court shall constitute a portion of the Aldermen's Court, or Court of the Corporation, and may, at his discretion, associate with himself two (2) of the Aldermen of the city; and in case of the sickness or death of the said judge his court may be held by three (3) of the said Aldermen.

ARTICLE X.

One Commissioner of the Revenue.

ARTICLE XI.

All regular elections for city or town officers, under this ordinance, shall be held on the fourth (4th) Monday in May, and the officers elect shall enter upon their duties on the first (1st) of July succeeding.

ARTICLE XII.

All laws or city ordinances in conflict with this provision shall be null and void from and after the adoption of this constitution.

HENRY M. BOWDEN, *Chairman,*
for the Majority of the Committee.

MINORITY REPORT

OFFERED BY MR. WOODSON.

The undersigned, a minority of the Committee on County Organization, beg leave to submit the following report.

JOHN C. WOODSON.

COUNTY ORGANIZATION.

1. There shall be, in each county of this Commonwealth, a court to be called the County Court, which shall be held monthly by a judge learned in the law, and to be known as the County Judge: *Provided*, that counties containing less than ——— thousand inhabitants shall be attached to adjoining counties for the formation of districts for county judges. The county judges shall hold their offices for the term of six years, and shall receive fixed and adequate salaries, which shall not be diminished during their continuance in office, to be paid quarterly out of the public treasury.

2. The jurisdiction of said court shall be the same as that of the existing County Courts, except so far as it is modified by this constitution, or may be changed by law.

3. Each county shall be laid off into districts, as nearly equal as may be in territory and population. In each district there shall be elected, by the voters thereof, two Justices of the Peace and one Constable, who shall reside in their respective districts, and hold their offices for the term of four years.

4. The civil jurisdiction of a justice shall extend to actions of debt, detinue, trover and assumpsit, where the amount or thing in controversy, exclusive of interest, does not exceed fifty dollars, and to actions of tort, and for the recovery of pecuniary fines and penalties, where the amount claimed does not exceed twenty dollars, with the right of appeal to the County Court in all cases involving the constitutionality or validity of an ordinance or by-law of a corporation, or where the matter in controversy, exclusive of interest and costs, is of greater amount or value than ten dollars.

5. The power and jurisdiction of Justices of the Peace, the manner of exercising the same, and their compensation, shall be prescribed by law, except so far as the same is fixed by this constitution.

6. The Justices of the Peace, in connection with the County Judge—a ma-

jority of whom shall be a quorum—shall, under such general regulations as may be prescribed by law, hold terms of the County Court for the superintendence and administration of the internal affairs and fiscal concerns of their county, including the establishment and regulation of roads, public landings, ferries and mills, the granting of ordinary and other licenses, and the laying, collecting and disbursing of the county levies. They shall, from time to time, appoint the places for holding elections in their county, appoint superintendents of the same, and shall be the judges of the election, qualifications and returns of their own members, and of all county and district officers.

7. There shall be elected, or appointed, in each county a Clerk of the Circuit and County Courts, a County Surveyor, an Attorney for the Commonwealth, a Sheriff, and so many Commissioners of the Revenue as may be authorized by law, who shall hold their respective offices as follows: the clerk, surveyor and attorney for the term of four years, the sheriff and commissioners of the revenue for the term of two years. Overseers of the Poor and School Commissioners or Superintendents shall be elected or appointed as may be prescribed by law. The Attorney for the Commonwealth shall be the attorney for both the County Court and Circuit Court.

8. The officers mentioned in the preceding section, except the attorneys, shall reside in the counties or districts for which they were respectively elected. No person elected for two successive terms to the office of sheriff, shall be re-eligible to the same office for the next succeeding term; nor shall he, during his term of service or within one year thereafter, be eligible to any political office.

9. The justices of the peace, sheriffs, attorneys for the commonwealth, clerks of the Circuit and County Courts, and all other county officers, shall be subject to indictment for malfeasance, misfeasance or neglect of official duty, and upon conviction thereof, their offices shall be vacant.

10. The Legislature may establish courts in any incorporated town or city, under such rules and regulations, and with such jurisdiction, as may be deemed proper.

11. All officers appertaining to the cities and other municipal corporations, shall be elected by the qualified voters, or appointed in the manner prescribed by law.

12. The compensation of the respective county officers shall be prescribed by law.

13. The Legislature shall provide, as soon as practicable, for the establishment of an efficient system of education. They shall provide for the support of schools, out of the school fund—the net proceeds of the tax which may be imposed upon the oyster trade, and of fines and forfeitures accruing to this State, under the laws thereof, and by general taxation on persons and property, or otherwise.

14. Provision may be made, by law, for the election, and prescribing the powers, duties and compensation of a general superintendent of free schools for the State; and for a county superintendent for each county; and for the election, in the several school districts, of such officers not specified in this constitution as may be necessary to carry out the objects of this article, and for

the organization, whenever it may be deemed expedient, of a State Board of Instruction.

15. The Legislature shall encourage and foster scientific, moral, intellectual and agricultural improvement; they shall make suitable provision for the blind, mute and insane, and for the organization and aid of such institutions of learning, as the best interests of education in the state may demand.

16. The salary of a judge of the County Court shall be not less than \$800, nor more than \$2,000, to be apportioned according to the population of the county or district.

MINORITY REPORT

OFFERED BY MR. H. H. LEE.

COUNTY COURTS.

1. There shall be in each county of the Commonwealth a County Court, which shall be held monthly, by not less than three nor more than five Justices, except when the law shall require the presence of a greater number.

2. The jurisdiction of the said Courts shall be the same as that of the existing County Courts, except so far as it is modified by this Constitution, or may be changed by law.

3. Each county shall be laid off into districts, as nearly equal as may be in territory and population. Such districts as now laid off by law shall continue, subject to such changes as may hereafter be made by the General Assembly. In each district there shall be elected, by the voters thereof, four Justices of the Peace, who shall be commissioned by the Governor, reside in their respective districts, and hold their offices for the term of four years. The Justices so elected shall choose one of their own body, who shall be the Presiding Justice of the County Court, and whose duty it shall be to attend each term of said Court. The other Justices shall be classified by law for the performance of their duties in court.

4. The Justices shall receive for their services in Court a per diem compensation, to be ascertained by law, and paid out of the county treasury, and such fees and emoluments for other services as may be allowed them by law.

5. The power and jurisdiction of Justices of the Peace, within their respective counties, shall be prescribed by law.

COUNTY OFFICERS.

6. The voters of each county shall elect a Clerk of the County Court, a Surveyor, an Attorney for the Commonwealth, a Sheriff, and so many Commissioners of the Revenue, as may be authorized by law, who shall hold their respective offices as follows: the Clerk, the Commissioner of the Revenue, and the Surveyor, for the term of six years; the Attorney, for the term of four years, and the Sheriff, for the term of two years; Constables and Overseers of the Poor shall be elected by the voters as may be prescribed by law.

7. The officers mentioned in the preceding section, except the Attorneys, shall reside in the counties or districts for which they were respectively elected. No person elected for two successive terms to the office of Sheriff shall be re-eligible to the same office for the next succeeding term, nor shall he, during his term of service, or within one year thereafter, be eligible to any political office.

8. The Justices of the Peace, Sheriffs, Attorneys for the Commonwealth, Clerks of the Circuit and County Courts, and all other county officers, shall be subject to indictment for malfeasance, misfeasance or neglect of official duty, and upon conviction thereof, their offices shall become vacant.

CORPORATION COURTS AND OFFICERS.

9. The General Assembly may vest such jurisdiction as shall be deemed necessary in Corporation Courts, and in the Magistrates who may belong to the corporate body.

10. All officers appertaining to the cities, and other municipal corporations, shall be elected by the qualified voters or appointed by the constituted authorities of such cities or corporations, as may be prescribed by law.

MINORITY REPORT
OF THE
COMMITTEE ON ELECTIVE FRANCHISE
AND
QUALIFICATIONS FOR OFFICE.

The undersigned, dissenting from the conclusions reached by a majority of the Committee, beg leave to submit the following report of their reasons for such disagreement :

This can be done more succinctly by stating the substantive features of the article proposed by the majority, and presenting our objections to each feature consecutively.

The proposed article, if made part of the Constitution of Virginia, will create the following results :

1st. It will confer the right of suffrage on all the adult male negroes now in the State, or who, migrating here from other States, shall reside six months ; excepting only idiots, lunatics, felons, soldiers, seamen, and *not excepting paupers*.

2d. It will disfranchise all the existing white citizens of Virginia, who are excluded from voting under the acts of Congress, commonly styled "The Reconstruction Acts."

3d. All of the aforesaid negroes will be competent to act as jurors, while none of the white citizens above named will be allowed to perform that service.

4th. All of the negroes aforesaid will be eligible to any office within the gift of the combined whites and negroes, so allowed to vote ; but none of said white citizens, so disfranchised from voting, can hold any such office ; this enfranchisement for office being subject only to certain special restrictions attached to each particular office, applicable alike to negroes and whites.

5th. All voting will be by ballot.

6th. An oath is prescribed to all office-holders, which requires them "to accept and recognize the *civil and political* equality of *all men* before the law."

It would seem superfluous to all minds cognizant of the relative mental, moral and social status of the white and of the negro populations in Virginia, to set forth in grave detail the reasons for objecting to so flagrant a political revolution as this, which confronts and does despite to all the wisdom acquired by mankind in their endeavors to maintain Republican Government during the last thirty centuries. But inasmuch as a few white people in Virginia, moved and

sustained by a powerful political party now controlling the Federal Government, not only propose to effectuate this revolution by the aid of the negroes, but to challenge for it the approval of the civilized world, we are constrained to put on record the fact that, as members of this Committee, we have protested against the measure, and a very brief summary of our reasons therefor.

Before examining the intrinsic character of the scheme, the mode in which it is to be made operative demands notice.

This Convention is assembled, and whatever power it possesses is derived from the acts of Congress before cited. These acts find no warrant in the Federal Constitution. They work a palpable and gross infraction of an indubitable and invaluable right reserved in that Constitution to the people of every State, to construct and regulate their State Constitutions and polity according to their will and judgment, (provided, only, they be Republican in the sense recognized and settled for the ninety years during which the Federal Government has existed,) and these acts are in absolute derogation of the national faith, solemnly pledged in the most imposing forms, by all the Departments of the Federal Government during the entire period of the late civil war, to wit: that the war was waged solely for the purpose of restoring the authority of the Federal Constitution over the people of the seceding States, and that so soon as that authority was restored, the seceding States should be recognized as integral members of the Federal Union, and continue as such, with all their institutions and rights unimpaired.

The people of Virginia, with entire unanimity, confiding in this national faith, so soon as the contest of arms ceased, resumed their allegiance to the Federal Constitution and the Union thereunder, and have kept that allegiance in perfect sincerity, and to the utmost of its obligations, up to the present hour. At the end of the war, a State Constitution and Government, which had theretofore been recognized as legitimate and rightful by all Departments of the Federal Government, was, by its sanction and aid, extended over all the people and territory of Virginia, was acknowledged and obeyed by all her people, was appealed to by the Federal Government to perform grave political functions, such as consenting to amendments of the Federal Constitution, and in such recognized discharge of all the powers and attributes pertaining to the Government of a State, continued in full force for the two years succeeding the close of the war.

There was no more of fact, or reason, or just pretext, deducible from the status of political affairs in Virginia, to warrant the assumption of power by Congress to abrogate this State Government, than existed for the usurpation of similar power in the States of Maine or Ohio. Yet Congress, and this Convention, its confessed instrument, are alike engaged in destroying the rightful State Government of Virginia, and prescribing the form of Government which shall be created in its stead: this, too, in opposition to the almost united voice of the citizens of Virginia, who alone can legitimately originate, and determine upon, such organic change.

Furthermore: this revolution, which will invest the negro population with actual control of the political power of the State, is to be consummated by summoning the negroes to put it in force, despite the known remonstrances of the white population. Such is the mode, and such are the auspices, under which the revolution will be inaugurated. It might well challenge inquiry, whether a

scheme of Government, if wise, righteous and beneficent in its structure and spirit, could reasonably be expected to enjoy a propitious and permanent sway, which acquires life by the dishonor of public faith, and the disregard of all the Constitutional sanctions, which alone make civil liberty possible to a people. But what are the intrinsic features of the proposed article?

I.—UNIVERSAL NEGRO SUFFRAGE.

It appears from the returns of the registration of the whites and negroes in Virginia, who were allowed to register and vote under said "Reconstruction Acts," that

The white voters numbered.....	120,101
The negro " "	105,832
Majority of white voters.....	14,269

The scheme of suffrage, proposed, invests with that franchise the same classes of whites and negroes as are allowed to vote under said Acts of Congress; and therefore, the above stated figures will show a correct comparison, for all practical purposes, of the relative numerical strength of the white and negro vote, under the proposed scheme.

It is plain to every mind conversant with the forces which operate in popular elections, that a negro vote so large as to be almost numerically equal to one-half of the entire vote, will soon acquire power which may be wielded so as to control the State Government; and that the very facility for attaining this result will give powerful inducement to political combinations contrived for the accomplishment of it. The scheme, therefore, puts the control of the Government within the easy and certain reach of the negroes.

We live in the full light of the instruction afforded by history, in its affecting record of the painful failures made by mankind during three thousand years, in their endeavors to devise and maintain Republican systems of Government. There is one political truth announced so conspicuously by this monitory voice, and so firmly established in the judgment of all enlightened minds, that it has ceased to be gainsayed by any but the veriest political empyric, or the basest demagogue. This truth is, that no Republican form of Government can subserve the beneficent ends of its institution, unless the power which controls its administration is vested in those who possess the following qualifications: 1st, *intelligence* adequate for his discreet exercise; 2d, *moral culture*, such as inspires true patriotism; 3d, such *stake of property* in the community as makes the ruling class feel the burdens of mal-administration.

The illustrious sages and patriots who founded free government in Virginia, whose names are often on the lips of those who condemn their counsels, are thus described by the accomplished statesman who has recently become the biographer of James Madison, that master-builder of free constitutions:

"The men who framed the Constitution of 1776 were men versed in the history of popular Governments, as well as profoundly conversant with the principles of human nature, and the character, circumstances and genius of the people for whom they acted. They had studied the ancient democracies, and knew well the vices and infirmities by which they were led to the worst of tyrannies. They had no design of adding another to the list of those disastrous and discredited experiments. * * * There cannot be a more striking proof of the real merits and essential wisdom of the Constitution of 1776, than that in

an age of change and revolution it firmly maintained its ground for a period of fifty-four years, against the persevering assaults of a host of critics and theorists, sustained by the authority of some of the highest names in the State; and when at last it was superseded by a new experiment, which in its turn has given place to another, that there is hardly now a thinking man of any party in Virginia, who would not gladly exchange the modern structure, and all its imagined improvements, for the ancient Constitution just as it was. * * * Government, our wise ancestors thought with Burke, was a practical thing, made for the happiness of mankind, and not to furnish out a spectacle of uniformity to gratify the schemes of visionary politicians."

These wise men, when they made the Virginia Constitution of 1776, recorded their testimony thus, as to who should exercise suffrage, viz: that "all men having sufficient evidence of permanent common interest in, and attachment to, the community," should be endowed with the franchise.

Tried by these enlightened tests, are the negroes of Virginia entitled to claim, or can they be safely endowed with, the elective franchise?

The answer lies in a brief compass:

First. They have not the *intelligence* adequate to vote discreetly for the good of any class.

They are descended, in direct line, from progenitors in Africa, who, since the flood, have held undisputed control of one of the most fertile continents of the globe, but have remained in such changeless and gross barbarism as to rank now, in the concurring judgment of mankind, lower in the scale of intellect and every moral attribute than the lowest type of the Caucasian race known to history, and quite as debased as any savage tribe yet discovered.

Starting with this congenital weakness, the negroes of Virginia have, for two hundred years, lived under the depressing influences of constant slavery. If they had been moved by a desire for mental elevation, there were no adequate aids afforded for its attainment; and every observer of the race has seen that they have shown but feeble desire to improve the limited opportunities allowed for a partial mental development. They have exhibited but little concern or desire for any attainment, save the supply of their physical wants; and when endowed with personal liberty, they have characteristically proven incompetent to provide even for these lower demands of our nature. A candid review of their history in Virginia leaves it in painful doubt, whether, if left alone to their own resources, they could long sustain their existence as a race, with the lower forms of civilization maintained. They exhibit no capacity for those simple mental processes which lead to the requisite foresight, thought and prudence to provide for pressing bodily wants; what, then, can measure the folly of the experiment, which entrusts to their hands the care of the complex and manifold interests of civilized society? It were as wise to trust the rule of the family to the infants of the household, as to commit the concerns of State to these infants of a larger growth.

Secondly. They have not the requisite *moral culture*.

History teaches that no race of men have ever wisely used political power, who have been called to its exercise, without some such antecedent training as would beget the higher forms of moral excellence. The negroes have had no such training. They are, consequently, sensual and intemperate in their ap-

petites, immoderate and often excessive in the use of power committed to them, prone to give the rein to passion, and the easy victims of imposture and pernicious error.

However pleasant it may be to observe the rare and honorable exceptions among them, who have risen above the sad debasement of their race, the number of such is too insignificant to affect the unavoidable conclusions which pertain to the present inquiry.

Thirdly. Unfit thus, mentally and morally, for so responsible a trust, the negroes lack the remaining essential requisite of *property-stake* in the community.

The action of government is constantly impinging on property. Those who wield the power of imposing burdens, should participate in bearing them. The negroes own neither lands, houses, or any kind of personal property, save to an extent so trifling as to be inappreciable. Viewed in the light of their habitual thriftlessness, and observing their tendencies in this regard since their emancipation, but feeble hope can be rationally entertained of an improvement in their condition in this respect.

A glance at the returns of the revenue officers of the State, in the office of the First Auditor, will exhibit the following facts: By inspecting the returns from a number of counties, indifferently selected from the several sections of the State, we form a fair estimate of the property held, and taxes paid by the negroes. The returns made for the year 1866, from the counties of Augusta, Rockbridge, Albemarle, Louisa, Prince George, Sussex, Elizabeth City, York, Prince William, Loudoun, Botetourt, Washington, Wythe, Halifax, and Henry, show that the entire tax assessed on the property of negroes in those fifteen counties was \$139 09; that the poll-tax assessed upon them, when added to this property tax, made an aggregate of \$4,503 96, of which \$3,051 71 was not collectable, and returned delinquent.

It would seem incredible, in view of all these palpable facts, that any party could seriously propose so monstrous a political evil, as to invest the negroes of Virginia with controlling power in the State. The scheme, in its naked deformity, can only be justly characterized as a measure, which, delivers over the intellect, the public virtue, the property, and all the priceless interests of refined, civilized society, to the rude and ruthless dominion of the ignorant, the thriftless, the dissolute, and the irresponsible. This age is not without a witness of the terrible fruits of such criminal folly. Thirty years ago, England, allured by the sentimental schemings of a few public men, who had a zeal for philanthropic efforts, which was without knowledge, emancipated the negro slaves in her West Indian colonies, by compensating their owners, and gave these negroes equal political power with their late masters. The blight of misery and ruin has hung, like a funeral pall, over those fair and fertile islands, from that day. Industry, arts and commerce have languished—anarchy, bloodshed and crime have flourished to so fearful a pitch, that, during the year just passed, England has been forced to retrace her steps. Political power has been taken from the negroes, and these colonies are now ruled by officers sent from the home government.

There are many other considerations of vital import which condemn this scheme of suffrage, but we can only cite the more prominent:

1. The transfer of the power of the State to a class so incompetent and unfit,

would be most hurtful, if the latter were homogeneous in race, and had lived on terms of equal personal and social right with the whites. But the power for evil in the proposed scheme, is terribly augmented by the fact, that the negroes have, for two centuries, been the slaves of the whites, have had no community with them in their political or social state; and, still more importantly, have been and are now separated from the whites, by an impassable and indelible physical barrier created by the hand of God! It should suffice for men to remember, that it is both *sin* and *folly* to seek to join those whom God has put asunder. A very simple induction from the laws of human nature will teach, that any experiment which ventures to disregard these elements of antagonism, and attempts by sudden and rude force to subordinate the race which has held the mastery for two centuries, to a condition of political equality with their former slaves, who are of alien blood and without any just title to such dignity and right, will evoke and put in fearful play every element of agitation and strife which could distract society. It were worse than folly to fail to see, that such a revolution could end only in a war of races, which would cease only in the extinction of the one which proved the weaker. It was for this plain reason, that until the present sad era, when the virtue and the sense of public men seem to have passed under the cloud of partisan passion, all statesmen, of every section and party in this country, whose counsels commanded the confidence of the people, united in advising, that whensoever the negroes should be emancipated, it would be for the good of both races that they should be separated; and that all efforts for the amelioration of the status of the negro race, should be tried on an arena free from the disturbing forces which would hinder his elevation in the same community with the whites. In consonance with these convictions, every such eminent statesman, has expressed his approval of some plan for the gradual deportation of the negroes to some region favorable to their physical comfort, and to rational endeavors for aiding them in building a government for themselves. These facts are familiar to every well-instructed school-boy.

It may be well to remind those, who draw their political ideas from the public men who have figured during the present disordered times, that Abraham Lincoln, the apostle and martyr of the so-called Republican party, delivered his views on this very theme to a large audience of negroes, who called upon him to express them, at the Executive mansion, in August, 1862, as follows:

"Having been seated, the President, after a few preliminary observations, informed them, that a sum of money had been appropriated by Congress and placed at his disposal, for the purpose of aiding the colonization, in some country, of the people of African descent, thereby making it his duty, *as it had for a long time been his inclination, to favor that cause.* And why, he asked, should the people of your race be colonized? Why should they leave this country? This is the first question for consideration. *You and we are different races. We have between us a broader difference, than exists between almost any other two races. Whether it is right or wrong I need not discuss: but this physical difference is a great disadvantage to us both, I think. Your race suffer greatly by living among us, while our's suffer from your presence. If this is admitted, it affords a reason why we should be separated.* * * * * The aspiration of men is to enjoy equality with the best, when free; but on this broad continent, not a single man of your race is made the equal of a single man of our's. I do not propose to discuss this; I cannot alter it if I would. It is a fact about which we all think and feel alike. * * * * If it better for us both, therefore, to be separated."

On another occasion, at Columbus, Ohio, Mr. Lincoln said in a public speech:

"I am not, nor ever have been, in favor of bringing about in any way, the social and political equality of the black and white races. I am not in favor of making voters or jurors of negroes; of qualifying them to hold office, or to intermarry with the whites. I am as much in favor as any man of having the superior position assigned the white race."

This is quite a plain opinion on the merits of negro suffrage! How criminal, then, is the folly, which seeks to venture on this measure, in the face of the warnings of the statesmen who have lived among and directed the government of the two races for a century! How vain is it to extinguish an antagonism which is based on an ever-present physical difference, and which has been augmented and made ineradicable, by all the forces controlling human ideas and emotions, operating for centuries! What rational philanthropist would project a measure, which could only operate by running the plough-share of reform against the very roots which sustain the life of human society?

2. The propounders of this scheme, attempt to parry the objection that it will lead to strife and anarchy, by assuming that it will not induce the negroes to desire or claim social equality or communion with the whites. How senseless seems the assertion! If the negro is to be entitled to fill the highest offices of government, and to be invested with all the dignities, honors, and emoluments, which public trusts confer, will he consent to inferior social status to any class in the State? Surely he must assert such claim, because the law confers it. If it be denied him, strife and bloodshed must ensue. If it be conceded, then follows, in inevitable sequence, that last and direst disaster which can befall the white race—the physical fusion and amalgamation of the races! For out of this, must come, the extinction of the higher race, with all its attainments and all its capacity for achievement, and the substitution of a race of hybrids, possessing feebler resources for the maintenance of their physical and moral well-being, than either one of the original stocks.

3. An intelligent regard for the real wants and interests of the negroes, would forbid such a measure. Suddenly endowed with freedom, he is turned adrift in the world, without property to supply his pressing physical needs, and with feeble intelligence, skill, and experience, to enable him to provide for this first and paramount want. It will tax all his industry, energy, and skill, to meet this demand upon his mind and labor. He sorely needs the sympathy and good will, the moral and material aid, of the whites, among whom his lot is cast. It will prove a cruel injury to him, to lure him into conduct which will alienate the whites from him, and rob him of their aid. It will be a bitter mockery of his real interests, to tempt him to strive for empty political honors, which, when attained, are unsuited to his capacities and tastes, while he is losing, in such strife, every rational hope of achieving the only good which he is capable of enjoying and which his pressing necessities require. It is into this road to misery and ruin, his false friends are driving him. Not only are the whites of the South opposed to the grant of political power to the negroes, but a decided and rapidly increasing majority of the Northern people are resolutely determined to prevent such a policy. This opposition is based on the firm and enlightened conviction, that such a measure bodes evil only to both races. This opposition must attain sufficient strength to assert its power, and control the political action of government. It is sustained by every consideration, affecting the industrial, commercial and financial well-being of all

sections, and by every suggestion of enlightened statesmanship and rational philanthropy. Those who place the negroes in opposition to this irresistible current, are trifling with his present vital interests, and luring him on to inevitable destruction.

4. The scheme works a gross degradation of a franchise, which should be upheld with virtuous pride by every intelligent freeman; and debases Republican government which rests alone on enlightened suffrage.

The apologies presented by the authors of the measure, are unsustained by reason or facts:

1. It is asserted that suffrage is essential to the protection of the negroes. If this were true, then females and minors are unprotected. Nothing is needed for the protection of any class, but a just, liberal and humane organic law, which guarantees impartial protection to the rights of all classes.

2. It is claimed that suffrage inheres *as a right* in every man, in a Republic! No man in civilized society has *any right*, the assertion of which injures the public weal. Suffrage is not a *right*, but a *trust* conferred under the civil compact. The present clamor about "human rights," might be profitably exchanged for greater consideration as to "human duties."

3. It is alleged, that the bestowal of political power on the negroes is essential to the maintenance of "loyal" governments at the South; that the negroes "followed the flag of the Union," and are now its only true defenders here. This assertion obtains credence with none who are unprejudiced. The negroes followed the flag of the Union, solely because it offered emancipation under its folds. Their loyalty had this "extent, no more." Those who arraign the fidelity of the whites in the South to the just authority of the Federal Government, are of that party which is trampling on every cherished muniment of civil liberty contained in the Constitution, and supplanting the rule of law by the rule of the bayonet. The Southern whites claim no *loyalty* which defies the Constitution of their fathers; they calmly and sincerely stand by its prescriptions, and time is rapidly rendering its just verdict as to who are faithful in their allegiance, *they*, or *their traducers*.

In closing this review of the proposed scheme of negro suffrage, it is worthy of notice, that its authors have determined to intrude its disturbing force upon the peace and welfare of the State, in all its virulent power; for they have refused to require even a rudimental education, or the possession of an atom of property, or the payment of a farthing to the support of Government, as prerequisites to the exercise of suffrage.

II.

While *universal suffrage* is granted to the negroes, a *sweeping disfranchisement* is enforced against *many thousands of the white people of Virginia*, embracing all of those who heretofore have been called to public trusts, because of their eminent intellect, probity, and capacity to serve the State. A double humiliation and wrong is thus deliberately inflicted. Surely the strain upon endurance was severe enough, in the sudden elevation of the negroes! To this is added the proscription of eminent white citizens, for no other reason, than that they faithfully represented and executed the will of their constituents. The seeds of *dissension, strife, and war*, are thus sown in the bosom of the Constitution.

III.

An oath is exacted as a condition precedent to office-holding, which requires the person to swear, that "he accepts and recognizes *the civil and political equality* of all men before the law." This requirement is obnoxious to two grave objections :

1st. It appears to be designed, to exclude from office, every white man in Virginia, who denies the justice and wisdom of the plan, to confer on the negroes equality of political franchise with the whites. It does not require, that the affiant shall aver, that he acknowledges such equality to be established by the Constitution ; but it seems intended, *to exact from him his moral assent* to the propriety of the measure. If this be its true intendment, it is an insidious and indefensible scheme for proscribing men who may be prepared to obey, in good faith, whatever is prescribed in the Constitution : but who cannot subscribe their *moral approval* of all its features ; and therefore,

2nd. It is a flagrant violation of *the liberty of private judgment* and of *the right to think and speak freely* touching all political questions—a right never surrendered, until the last defences of constitutional liberty fall before the violent hand of tyranny.

IV.

The vote *by ballot*, is established. Open suffrage, has always been approved by the eminent patriots of Virginia, as tributary to the purity of elections, and the preservation of a spirit of manly independence in the citizen. Secret voting is favorable to corrupt appliances and combinations, and becomes the more dangerous, as the suffragans may be debased in mind and morals. The ballot system will make it easier, for designing and astute self-seeking politicians to practise upon the prejudices and feeble intellects of the negroes, and combine their votes for unworthy ends.

We propose, in the stead of the Article reported, that the provisions of the Constitution of Virginia made in the year 1851, be adopted, so far as they relate to the subjects of *suffrage and qualifications for office*, with a clause added, prescribing the payment of taxes, as a *pre-requisite* to voting.

JNO. L. MARYE, JR.,
J. N. LIGGETT,
EUSTACE GIBSON,
NORVAL WILSON.

COMMUNICATION

FROM

GENERAL SCHOFIELD

IN RELATION TO THE

Election of Delegates from Richmond, &c.

HEADQUARTERS FIRST MILITARY DISTRICT,

STATE OF VIRGINIA, *Richmond, Va.*, Feb. 6, 1868.Mr. GEORGE RYE, *Secretary Virginia State Convention, Richmond, Va.*:

SIR :

I am directed by Major-General Schofield to acknowledge the receipt of a copy of a resolution of the Convention, adopted February 4th, 1868, requesting him to "communicate to this Convention all facts in his possession relating to the election of delegates to the Convention from the city of Richmond, and the alleged frauds in Monroe ward," and to say in reply, that if he had been possessed of information showing any certificate of election given by him to have been incorrect, it would have been his duty to have so informed the Convention without delay. While he has no information that can affect the right of any of the present delegation to their seats, he takes pleasure in complying with the request of the Convention.

After the late election for delegates to the Convention, many allegations were made of fraud both in the registration and election, and formal charges were preferred against the officer who superintended the election in this city. It was even confidently reported to the official superiors of the Commanding General, by prominent citizens, that there were "over three thousand fraudulently registered colored voters, and over two thousand fraudulent votes recorded among the colored people," in the city of Richmond.

The officer who had superintended the registration and election was brought before a Court of Inquiry appointed to investigate the charges preferred against him. That court, after long and thorough investigation, submitted its findings, of which the following extracts are all that relate to the matter now under consideration :

* * * * *

"The court does not find that Colonel Rose endeavored to prevent any one from exercising his right of franchise, nor that any one was so prevented by any action of his.

* * * * *

"Nothing has been shown indicating that Colonel Rose manifested any partizanship, partiality or prejudice in favor of either political party.

"The court does not find that Colonel Rose was guilty of any act tending to subordinate the white to the colored voters, nor does it find that there is any evidence showing that he was advised of frauds perpetrated by colored voters, their aiders or abettors, or in reference to registration (voting in place of?) of absent, dead or fraudulently registered voters."

A board of officers was also appointed to make a special revision of the registration in Monroe ward, where the greater portion of the alleged frauds were said to have been perpetrated. As the first step toward the revision, the Military Board, assisted by a commission of citizens appointed by the City Council, took a census of the adult males (white and colored) living in that ward. They found eighteen hundred and ninety-eight (1898) white males over twenty-one years of age, of whom forty-four (44) were returned as "disfranchised," leaving eighteen hundred and fifty-four (1854) whites who are entitled to register and vote; that is, three hundred and thirty-nine (339) more than were registered, and four hundred and nineteen (419) more than voted at the late election. The failure of this balance to register was solely their own fault, for only eighteen (18) white persons were rejected by the Board of Registration in that ward. This joint commission also found living in the ward seventeen hundred and fifty-four (1754) colored males over twenty-one years of age, who are entitled by law to register and vote; that is, three hundred and ninety-seven (397) less than the number registered, but one hundred and forty-three (143) *more than the number of those who did vote at the last election.*

The very great error of those who estimated the number of colored voters at more than three thousand (3,000) less than the number on the register was a natural one, and had its origin, doubtless, in the errors of the city tax list. That list contains the names of only seventeen hundred and sixty-one (1761) colored persons in the three old wards (1st, 2d and 3d) of the city, while the registration shows five thousand and eighty-three (5,083) in the same wards. In the same wards the tax list gives four thousand seven hundred and ninety-eight (4,798) whites, while the registration gives four thousand one hundred and forty-eight (4,148) white voters.

In Monroe ward the tax list gives only seven hundred and ninety-one (791) colored, while the special census recently taken gives seventeen hundred and fifty-four (1754). If the City Assessor alone was able to find only about one-third of the colored voters in Monroe ward, it is reasonable to suppose that the joint commission (of which the Assessor was a member) fell somewhat short of the whole number.

The Commanding General thinks the evidence satisfactory that the registration was nearly correct as to numbers among the colored voters, and lacks perhaps one thousand (1,000) of being complete among the whites. But a careful comparison of the register with the late census return, shows considerable inaccuracy in the lists of both white and colored in the recording of names, ages, residences, &c. The names and descriptions of twelve hundred and fifty-one (1251) white and thirteen hundred and ninety-six (1396) colored persons on the register of voters and census return, are found to agree so nearly as to convince the officers who made the comparison that they are of the same persons. The

former number is one hundred and eighty-four (184) less than the number of whites who voted, two hundred and sixty-four (264) less than the number registered, and six hundred and three (603) less than the whole number of white voters found by the census. The latter number is two hundred and fourteen (214) less than the number of colored persons who voted, seven hundred and fifty-five (755) less than the number registered, and three hundred and fifty-eight (358) less than the number of voters found by the census. Such errors were also made manifest at least in the lists of colored voters at the late election, causing the rejection of a large number of votes.

Until the inaccuracies above referred to have been corrected, it will be impossible to determine precisely to what extent the names on the census list and on the register are identical. Nor is it a matter of any importance with reference to the immediate object of the census. The latter shows no greater evidence of fraud in the election on the one side than on the other, but does give at least very strong ground for the presumption that no considerable frauds, if any, were committed on either side, and thus disposes satisfactorily of that question. Hence it has not been deemed necessary to prosecute the revision at the present time, beyond the census and comparison above referred to. It will be completed and extended to the entire city, at the time appointed by law, before the next election.

Very respectfully,

Your obedient servant,

J. A. CAMPBELL,
Brevet Lt. Col. U. S. A., A. A. A. G.

MINORITY REPORT
OF THE
COMMITTEE ON PRIVILEGES & ELECTIONS
IN THE CASE OF FAYETTE MAUZY.

To the Constitutional Convention of Virginia :

The undersigned, a minority of the Committee on Privileges and Elections, dissent from the views, opinions and conclusions of the majority, and ask leave to submit the following report for the consideration of the Convention :

It is not proposed to follow the majority in the wide and discursive range which they have taken in the questions involved, but to confine ourselves to the real issues, which seems to us to be presented by the facts before the committee.

If, in thus confining ourselves, we should nevertheless seem to be tedious, we plead the *novelty* of the questions raised and the *number* and *variety* of the positions assumed by those with whom we disagree.

I. Mr. Mauzy is entitled, "*prima facie*," to the seat he now holds—

First. Because he received a conceded majority of the votes in his county.

Second. Upon this majority thus returned he received a certificate of election from Major-General Schofield.

Third. The Committee on Credentials has reported in his favor.

Being thus in possession, he can only be *dispossessed* by clear and satisfactory affirmative proof of *ineligibility*. This proof must be furnished by those who seek to remove him from the exercise of the high public trust committed to him by his constituents.

We lay it down as a general rule, and one that ought to be respected and observed in all governments *claiming to be free*, that all laws in *derogation of vested or conventional right are to be strictly construed*.

Another most salutary and beneficial rule may be laid down in the language of Chief Justice Story, viz: that "we are undoubtedly bound to construe penal statutes strictly, and not to extend them beyond their obvious meaning by strained inferences."

The question arises, are the laws, commonly known as the "Reconstruction Acts" of Congress, of this character? We answer, *unquestionably*. Under what circumstances were they passed, and what were the rights of the citizens of

Virginia at the time they were enacted? The war had ended nearly two years. The government set up at Wheeling, in 1861, had been recognized by all the branches of the Federal authority—the executive, legislative and judicial. The division of the State, the removal of the government to Alexandria, the recognition of it there, the extension of it over the residue of the State under the provisions of the Constitution and the proclamation of President Johnson, the submission to its Legislature of the Constitutional Amendment, all show that prior to the passage of these acts there was, in Virginia, *certainly a de facto*, and, according to the views and opinions of her Executive and those who affiliated with him, a *de jure* government.

In his message of the 19th day of June, 1865, to the Legislature, that functionary refers to the case of *Luther vs. Border*, 7th Howard's U. S. S. C. Reports, page 42-43, and remarks: "The Chief-Justice, in the course of his decision in the above case, repeats the idea that determining whether the form of the government is republican in a State, and when it is proper for the United States to interfere to protect against invasion or domestic violence, are purely political questions, the one to be decided by the President, according to an act of Congress passed in 1795, the other by Congress, and when decided by these authorities, the decision is conclusive and incapable of reversal or alteration."

"The President of the United States, as I have already stated, has recognized the Executive of the restored government of Virginia as the rightful Governor of the State. Both Houses of Congress have admitted to seats in the councils of the Union senators and representatives bearing the great seal of the State under my sign-manuel. Then, as far as the law and the Constitution of the United States (as interpreted by the Supreme Court) and the acts of the State and the United States are concerned, the restored government of Virginia, as established by the Convention which assembled at Wheeling on the 11th day of June, 1861, is the rightful and lawful government of Virginia." (See Message, pages 3 and 4.)

The legislative assemblage to which said message was addressed, proceeded to enlarge, and did enlarge, the right of suffrage and confer it (among others) upon all who had been pardoned by the President of the United States. It has been claimed by some, who wish to escape the difficulties which environ the pathway of those who admitted the validity and constitutionality of this Government at one time, when it subserved their purposes, but turned against it and denounced it as lacking in these particulars, when it failed to answer their personal ends, that said act, extending the right of suffrage, was unconstitutional, null and void, and that through its instrumentality the Government was usurped, and Congress had the right to abolish it. To sustain this absurd position, it is gravely contended that the Constitution provided that the House of Delegates should consist of not less than eighty and not more than one hundred and four members, and that the Senate should never be less than one-fourth or more than one-third the number of the House of Delegates; that the members in both bodies were less than said numbers, at the time of the passage of said law, and, therefore, the consequences resulted which have already been indicated. By reference, however, to the 8th section of the 4th article of the Constitution, it will be seen that such an emergency was provided for. It declares that "a majority of the members elected to each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day," &c., &c. Now, it is not denied that this condition of the Constitution was fully met, a majority of the members elect of each House being present; besides, if it was not, the

remedy was through the Courts, and not by the destruction of the Government itself.

But whether this be so or not, it is certain that Mr. Mauzy was invested with the right of suffrage and the right to hold office under, at least, an existing *de facto* Government, and that, if it is insisted the acts of Congress are operative to *deprive him thereof*, they must be construed strictly as being in derogation of *vested rights* enjoyed under conventional forms.

Guided by these facts and principles, let us examine the Reconstruction Acts and see what they declare upon this subject: The only provision to be found in either the original or supplemental acts, which affects this question, is the proviso to the fifth section of the first, which declares "that no person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States" (known as the 14th amendment) "shall be eligible to election as a member of the Convention, to frame a Constitution for any of said rebel States, nor shall any such person vote for members of such Convention.

What, then, are the requirements of the Constitutional Amendment referred to, and made part of said act by said reference? It declares in the 3d section, which is the only part applicable to this case, "that no person shall hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an *executive or judicial officer* of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof."

It is clear that this amendment, requires—1st, The holding of one of the enumerated offices, and the taking of an oath to support the Constitution of the United States; and, afterwards—2d, That such person shall have participated in the rebellion. To operate disqualification, there must be a *concurrence of both these facts in the same individual*.

In addition, it is proper to mention here, that Mr. Mauzy has received from the hands of the President of the United States, on the 21st day of June, 1865, and nearly two years before the passage of the first Reconstruction Act, a full and free pardon for any and all offences committed by him, and was thereby re-instated in all his personal, civil and political rights, as will be more satisfactorily shown hereafter.

It is admitted that Mr. Mauzy was *clerk* of the County Court of Culpeper county before the war, and, as such, took an oath to support the Constitution of the United States, and afterwards voted for the ordinance of secession. The question then arises, is the office of clerk of a county court among the offices enumerated in said amendment?

If it is, it must come under the head of either an "*executive or judicial*" office, and the majority of the committee claim that it is *both*.

It is important, in entering upon this investigation, to obtain a clear and satisfactory definition of the *terms* employed.

The 2d article of the Constitution of Virginia of 1829-'30, of 1850, and the Alexandria Constitution, divides the powers of government into three great primary departments viz: "The Legislative, Executive and Judiciary departments"—declares that they "shall be separate and distinct, so that neither exer-

cise the powers properly belonging to the others; nor shall any person exercise the powers of more than one of them at the same time," &c. If, therefore, the majority be correct in taking the ground that a clerk is both an executive and judicial officer, his position, as such, not only has no warrant in the Constitution, but is plainly and clearly forbidden by the terms of that instrument, as it has existed in the *past* and as it exists *now*.

We emphatically deny that the office of clerk in Virginia is *either an executive or judicial office*; but, on the contrary, claim that it is merely *ministerial*. He is a mere *subordinate* of the *judicial branch* of the Government, and does clerical duty as such. He cannot in *any sense* be deemed a *judge*, for he is not so recognized either in *name* or in *function*. He has no power to pronounce upon the *constitutionality* of a law; or to *construe* it, except for *himself*, and then *always under the supervision of the court*. He has no power to *bind third parties* by any judgment, or to enforce any decree he might render. His duties are all prescribed by the law, and beyond this he has no right to venture. He has no *discretion* except to do *what he is commanded*, and in the *mode* prescribed, or take the *consequences* attaching to the *violation* of duty. The idea of the majority of the committee seems to be that the mere exercise of *judgment*—as, in *addition, subtraction, division, multiplication or comparison*, makes a man a judge! If this were so, there would be nothing *distinctive* attaching to the *idea* of the Constitution, or to that of *judicial office*. Every merchant's clerk exercises such functions.

Webster defines a clerk to be "a writer, one who is employed in the use of the pen, in an office, public or private, for keeping records or accounts, as the clerk of a court." "A clerk is always an officer subordinate to a higher officer, board, corporation or person."

The references of the majority to the Code of Virginia, to prove their position, seems to us to be utterly inefficient and unsatisfactory. Even if the acts referred to were *judicial* in their character, they would not constitute the clerk a *judicial officer*, any more than the performance of *clerical* duties by a *judge* (as is frequently the case) makes him a *clerk* or *ministerial officer*.

But to the examples given:

I. The case arising under section 82 of chapter 85 of the Code of Virginia. This is plainly only a case of examination of the commissioner's books, to ascertain 1st. whether they are made out in accordance with prescribed forms. 2d. Whether the calculations, additions, subtractions, &c., are correct. 3d. Whether they agree with the records in his office in matters of transfer, upon sale of real estate, &c. If this makes the clerk a judicial officer, the *commissioner of the revenue must be one too*; for the law expressly recognizes his right to *agree or disagree in judgment* with the clerk, and if they disagree, he is *not* bound by the judgment of the latter—but there must be a common reference of the matter of difference to the "Attorney for the Commonwealth of the county or corporation," and "they (i. e. the clerk and commissioner) *shall conform to his decision!*" The same rule of construction would much more strongly make the Attorney for the Commonwealth a judicial officer! And yet, we have never heard him so characterized, even in these disjointed times of reconstruction! But, in the event this officer fails to decide, it goes to the *court* for adjudication and is decided *judicially!* In addition, a remedy is given against erroneous assessments, &c., whether made by the commissioner of the revenue or sanctioned by the clerk or prosecuting attorney, upon appeal. See section 101.

The law inflicts a *penalty* on the clerk if "he *carelessly performs* any of the duties required of him in said chapter, section 85."

Who ever heard of a penalty being attached to performance or non-performance of a *judicial act* involving *discretion*, the exercise of *judgment*?

The second illustration given by the majority report, is the requirement made upon the clerk to report whether fiduciaries have given such bond as the law requires, and if not, "to make report thereof to the court." (See chapter 132, sec. 2 of Code of Virginia.)

The duties here required are clearly only *ministerial*. 1st. He is required to report whether *any bond* has been given. This requires only a search, which anybody might make. 2d. If a bond has been executed, whether it is such as the law requires. This only involves an examination of a *plain statute* and a *prescribed form* known, used and recognized all over the State. 3d. If it is discovered, on examination, that no bond has been executed, or that a bond is not in accordance with the prescribed and usual form, this officer is required to do nothing more than report the fact to court, and it *determines* the question upon an inspection and examination made by *itself*. The action of the clerk only brings the matter to the *attention of the court*.

The Court of Appeals of Virginia has decided, in the case of *Page vs. Taylor*, (2 Mumford, 492,) that, "the taking of a guardian bond is *not* a ministerial, but a *judicial act*, imposed by law on the *court*, which is to judge of the sufficiency or insufficiency of the security offered." And in *Austin vs. Richardson*, (1 Grat-tan, page 310,) that "a clerk taking a defective bond from a guardian was not a proper party to a suit for the settlement of the guardianship accounts, and could not be held liable therefor."

The third, and last, illustration given is that of the appointment and removal of a deputy clerk, under chapter 163, section 8 of the Code.

In regard to the *appointment* of the deputy, the clerk is merely the *suggesting* or *nominating* power. It involves no *judicial act*, unless it be a judicial act for a merchant to appoint a man his clerk, on the ground that he may be *agreeable* and *qualified* to discharge the duties of the position.

The power to *remove* without the concurrence of the court is given, because the clerk is *responsible for all the acts of his deputy*, and for his compensation, and it would be *grossly unjust* and improper to require him to retain a man in office under such circumstances, *in the receipt of pay from his employer*, when he might, for any reason, become objectionable to him. The relation is simply that of *employer* and *employee* under the sanction of the court, so far as the *commencement* of the relation is concerned, but not in its *continuance*.

And here we will call attention to the fact that this deputy, while in office, "*may discharge any of the duties of the clerk.*" (See said section 8th.)

Now if the clerk is a *judicial officer*, because of the discharge of the duties of his office, why not the deputy? And yet General Schofield has expressly decided that deputy clerks may *register* and *vote* under the existing law.

We thus see to what strange inconsistencies these views and doctrines, designed to limit and restrict the right of the people in the *free choice* of their *agents*, *trustees* and *representatives*, lead their votaries.

We insist that these enactments, so broad in their general principles, so ex-

tended in their range as to embrace the territory of ten States and some eight or ten millions of people, and affecting the dearest rights of person and property, should be strictly construed in all their restrictive features.

We have not thought it necessary to follow the report of the majority in its argument, to show that a clerk is an *executive* officer. The views already presented satisfy us that he can be in no sense so regarded. He belongs to the *judicial*, and not to the executive department of the government, and is merely a *ministerial* officer in the judiciary. "Executive" is defined to mean "having the quality of executing or performing, as *executive* power or authority, an *executive* office." Hence, in government, it is used in distinction from legislative and judicial. "The body that deliberates and enacts the laws is *legislative*; the body that judges or applies the laws to particular cases, is *judicial*; the body or person who carries the laws into effect, or superintends the enforcement of them, is *executive*."

If we are correct in the position that the office of clerk is neither a *judicial* nor *executive* office, the case is made out, and Mr. Mauzy is *clearly eligible* to the seat which he now holds. We have made no reference to the 6th section of the Supplementary Act of July 19th, 1867, for the reason that it only relates to the *requisites for registration and voting, and not to eligibility to office*. The legislative construction given to the language used in the previous acts, has reference only to applicants for *registration* and the exercise of the *elective franchise*, and cannot be extended beyond the meaning of the plain and obvious language of the law. The inquiry has been started by some, why would Congress permit men to be eligible to membership in the Conventions called under the Reconstruction Acts, and yet prohibit them from registering or voting? We might reply, that we are under no obligation to answer; that the laws speak for themselves; that they have been fully and maturely considered, and several times amended, and yet "*thus are they written*." If it had been the purpose of Congress to make them otherwise than they are, they could easily have effected their object by the introduction of the word "delegate" into the 6th section of the second Supplemental Act of July 19th, 1867; but they have not done so, and it is not for us to supply the omission, if omission it be. The fact that they deemed it necessary to give a legislative construction to that part of former acts which related to registration and voting, shows that they considered it necessary to do so in order to avoid the opposite construction, while the failure to extend it to the qualifications for membership in the Conventions, indicates that they wished no change in this particular, and were content with the language already used. We can see no real inconsistency in this action. Congress may very well have chosen to allow the *voters*, who were deemed by them to possess the qualities and qualifications of electors, the privilege of a wider range of selection than was afforded by *their own body*. They may very well have felt that they could trust these men in making a choice beyond their own ranks, knowing that thereby greater knowledge and larger experience could be secured; that the work of the Conventions is merely *experimental, not final*, and when completed is to be submitted for ratification or rejection to the very people who have been considered sufficiently loyal to be *endowed and trusted with the right of suffrage*; so that, at last, the Constitution, if adopted, will be the work of the *voters themselves*.

II. Admitting, merely for the sake of argument, that a clerkship is a judicial office, the question arises as to the alleged participation in rebellion. The undersigned refer to the evidence on this subject, without commenting on it

specially, except to say, 1st, that the vote for the ratification of the ordinance of secession does not afford any *certain test*, in the nature of an overt act, for the reason that it is susceptible of explanation; 2d, that it was given "*flagrante bello*," and really amounted to nothing; 3d, that it was cast under circumstances of such *moral coercion* as ought to relieve it from all imputation of alleged guilt; 4th, no other *act* is alleged to have been done by him, and only words and feelings were expressed.

III. If we are correct in the position already assumed, that a clerkship is not a judicial or executive office, and that therefore Mr. Mauzy is not numbered among the *excepted classes*, there is no necessity for any reference to the subject of pardon. As, however, some may dissent from our position, and the majority report goes into that matter very fully, and, as we think, presents very erroneous and untenable views in relation thereto, we deem it proper to respond briefly to the same in this particular.

As to the effect of the pardon of the President, under his proclamation of the 29th day of May, 1865, we deem it only necessary to refer to the case of *Ex parte Garland*, decided since the war, at the December term 1866, by the Supreme Court of the United States, and the general, broad declaration of principles therein made. The facts of the case need not be specially referred to, as they are presumed to be familiar to the members of the Convention.

The language used by Judge Field, who delivered the opinion of the court, is as follows, viz: "The Constitution provides that the President 'shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.'" (Article II, section 2.)

"The power thus conferred is *unlimited, with the exception stated*. It extends to every offence known to the law, and may be exercised at any time after its commission, either before legal proceedings are taken, or during their pendency, or after conviction and judgment. This power of the President is not subject to *legislative control*. Congress can neither limit the effect of his pardon nor exclude from its exercise any class of offenders. The benign prerogative of mercy reposed in him cannot be fettered by any legislative restrictions.

"Such being the case, the inquiry arises as to the *effect and operation* of a pardon, and *on this point all the authorities concur*. A pardon reaches both the punishment prescribed for the offence and the guilt of the offender; and, when the pardon is full, it releases the punishment and blots out of existence the guilt, so that, in the eye of the law, the offender is as innocent as if he had *never committed the offence*. If granted before conviction, it prevents any of the penalties and disabilities consequent upon conviction from *attaching*; if granted after conviction, it removes the penalties and disabilities and restores him to all his civil rights; it makes him, as it were, a *new man*, and gives him a new credit and capacity."

Thus far the majority report quotes, but we add another passage or two equally strong:

"The pardon produced by the petitioner is a full pardon," (as in the case of Mr. Mauzy under consideration) "for all offences by him committed, arising from participation, direct or implied, in the rebellion, and is subject to certain conditions, which have been complied with. The effect of this pardon is to relieve the petitioner from all penalties and disabilities attached to the offence of treason committed by his participation in the rebellion. So far as that offence

is concerned, he is placed beyond the reach of punishment of any kind. But, to exclude him, by reason of that offence, from continuing in the enjoyment of a previously acquired right, is to enforce a punishment for that offence, notwithstanding the pardon. If such exclusion can be effected by the exaction of an expurgatory oath concerning the offence, the pardon may be avoided, and that accomplished indirectly which cannot be reached by direct legislation."

Well may the majority of the committee say, this language "is broad!" In our opinion, after the maturest reflection we have been able to give the question, it is broad enough to cover this whole case, even if it were conceded that it was made out as fully as the majority claim.

We utterly deny the soundness of the proposition, asserted so confidently, that a decision upon a question of a general character, and involving principles—the highest and the most sacred which can by possibility appertain to human right and human liberty—must be confined to the particular case under consideration. We deny, with equal emphasis, the truth of the alleged maxim, "that the authority of a judicial decision is co-extensive only with the facts upon which it is made. Men may perish, but principles never. The court, in this case, discusses and settles the great, broad, fundamental principles which underlie and clothe with majesty and beauty the doctrines of pardon. They speak, not only in reference to the particular case before the court, but they make that the *test* from which they educe principles applicable to all cases. The court discusses the general question of pardon, lays down with clearness the well-received and universal doctrines on that subject, and then makes special application of them to the case under consideration.

Broom, in his recent elaborate and exhaustive work upon constitutional law, says: "A public statement of the reasons for a judgment is due to the suitors and to the community at large—is essential to the establishment of fixed intelligible rules, and for the development of law as a science." "A judgment once delivered becomes the property of the profession and the public. (See page 152.)

The 13th section of the 6th article of the Constitution of 1850, and the same section of the same article in that adopted at Alexandria, provides that "When a judgment or decree is reversed or affirmed by the Supreme Court of Appeals, the reasons therefor shall be stated in writing and preserved with the record of the case."

Congress has specially provided for the report of all decisions rendered by the Supreme Court of the United States.

Why *all this*, if the doctrines announced were only "co-extensive with the facts upon which" the decisions are made? They are, on the contrary, intended as land-marks and guides in similar or kindred cases, and in this case the decision is to be regarded as the great *leading case on the subject of pardons by the Executive of the United States.*

Mr. Mauzy was then made "*a new man*," under this decision, by the acceptance of the pardon of the President under the amnesty proclamation on the 21st day of June, 1865! It released the punishment and blotted out of existence his guilt, so that, in the eye of the law, he was *as innocent* as if he had *never committed the offence*—being granted before conviction, it prevented any of the penalties and disabilities consequent upon conviction from attaching. It gave him a *new credit and capacity.*

So far as that offence (treason) is concerned, he is placed beyond the reach of

punishment of any kind. To exclude him, by reason of that offence, from continuing in the enjoyment of a previously acquired right, is to enforce a punishment for that offence notwithstanding the pardon. If this can be done, the pardon may be avoided and that accomplished indirectly which cannot be reached by direct legislation!

We do not think we can make it plainer by any additional words. Yet the majority of the committee claim, in the face of this decision, that a man who was fully pardoned on the 21st of June, 1865, had all his *disabilities removed, was restored to all his rights of person and property, to vote and hold office, and was in the actual enjoyment of them all*, could be, and was, *deprived of the right to vote and hold office by an act of Congress, passed on the 2d day of March, 1867, for the same offence which had already been pardoned!* In other words that Congress could pass an *ex post facto law*, by which all the beneficial effects of the pardon should be *nullified*, and pains and penalties inflicted, although the Supreme Court expressly declares that "this power of the President (to pardon) is not subject to *legislative control*," that "Congress can neither limit the effect of his pardon nor exclude from its exercise any class of offenders," and that it cannot be fettered by any legislative restrictions." The court says that Congress *cannot* control this question *in advance*; the committee say it *can* do it *afterwards*!

The majority go into a long disquisition upon the question, whether we were conquered rebels or conquered belligerents, and whether the Government had the right to treat us as *either*, and come to the strange conclusion, apparently not knowing which horn of the dilemma to take, that it was justified in treating us as *both*! Such a conclusion will be found wholly unsupported by any writer on public or international law, and is so clearly at war with every principle of *justice and right* that we think it unnecessary to argue it.

The true question, however, and, indeed, the only question in this connection, is not what the Government *had the right to do*, or *claimed* to have the right to do, *but what did it do?* It has made its own *election*, and by that election, voluntarily made, it must stand. It cannot adopt one line of action and policy to-day and another to-morrow. The Southern people, as the conquered party, have a right to demand *consistency of conduct* and the observance of *public faith*. The executive department elected to treat them as conquered rebels, and as such has granted them *amnesty and pardon*. The judicial department of the Government, the arbiter of the other departments, has declared this amnesty and pardon valid and effective for all purposes, and that the effects and consequences of the same are beyond any legislative control which Congress may seek to exercise over the subject.

We have already shown the recognition of the government of Virginia, as an existing, valid government, by Congress, and the necessary result of that recognition, and need not repeat. We submit, therefore, most respectfully, as the conclusion of these views, the following resolution for adoption by the Convention, viz :

Resolved, That Fayette Mauzy is eligible to, and entitled to hold his seat in this Convention.

All of which is respectfully submitted.

MOSES WALTON.
ADOLPHUS W. HARRIS.

RESOLUTION OFFERED BY MR. PORTER.

Resolved, That a select committee be appointed, whose duty it shall be to draft for the proposed Constitution, in such form and language as they shall deem most fit and advisable, and report the same to the Convention, an article which shall entitle every householder or head of a family, in addition to the articles now exempt by law from distress or levy, to hold exempt from levy, seizure or sale, under any execution or other process issued on any demand for any debt heretofore or hereafter contracted, his real and personal property, or either, whether heretofore or hereafter acquired, to the value of not exceeding two thousand five hundred dollars (\$2,500): *Provided*, that such exemption shall not extend to any execution or other process issued on any demand in the following cases:

1. For the purchase price of said property, or any part thereof.
2. For services rendered by a laboring person, or a mechanic.
3. For a lawful claim for any taxes, assessments or other public charges accruing since the 2d day of April, 1865.
4. For rent accruing after the 2d day of April, 1865.
5. For liabilities incurred by any public officer, or officer of a court, or any fiduciary, or any Attorney at Law for money collected.
6. For Sheriffs', Sergeants' and Clerks' fees accruing since the 2d day of April, 1865.
7. Nor shall such exemption apply where a lien has been acquired on said property, or any part thereof, by a judgment rendered for a debt contracted since the 2d day of April, 1865: *Provided*, such exempt property shall not be subject to any lien by reason of any judgment heretofore rendered for a debt contracted prior to the 2d day of April, 1865, or which may hereafter be rendered; or execution or other process issued for a debt contracted after the 2d day of April, 1865, except as herein otherwise provided.

And it shall be the further duty of said committee to so frame the article in question as to preclude any construction thereof that would interfere with the sale of said property, or any part thereof, by virtue of any mortgage, deed of trust, pledge or other security thereon, or with sales made under the judgments or decrees of courts in cases where the collection of debts is not the object of such sales.

It shall be the further duty of said committee to report a provision prohibiting the General Assembly from passing any law staying the collection of debts, commonly known as "stay laws," further than may be necessary to fully carry out the provisions of this article.

It shall be the further duty of said committee to report a provision requiring the General Assembly to prescribe in what manner and on what conditions said householder or head of a family shall set apart and hold for himself and family, out of any real estate which he may have, a homestead to the value of not exceeding two thousand five hundred dollars (\$2,500), which shall be included in the property herein exempted.

And finally, it shall be the duty of said committee to report a clause to the effect that the provisions of the article in question shall be construed liberally, to the end that all the intents thereof may be fully and perfectly carried out.

CHARLES H. PORTER.

REPORT
OF THE
JUDICIARY COMMITTEE
UPON THE
PETITION OF THOMAS BARTON

AND OTHER CITIZENS OF THE FIRST CONGRESSIONAL DISTRICT,
ASKING RELIEF FROM THEIR PRESENT
PECUNIARY EMBARRASMENTS, &c.

The committee has considered the subject, and arrived at conclusions which I am instructed to submit to the Convention.

The main object which the petitioners seek to obtain, is the exemption of lands and other property from the payment of their debts, which were liable therefor when the same were contracted. The debtor applies for and obtains credit upon the faith of the property he holds, which, by the law then in force, may be subjected to the payment of his debts. The creditor looked to the resources of his debtor, and lent him money or sold him property upon time, which he never would have done had he believed that he would, by subsequent legislation, be deprived of the means of making his debt, which the law gave him at the time it was contracted. Any such legislation is but repudiation in disguise, and being *ex post facto* in its character, is expressly prohibited by the 10th section of the 1st article of the Constitution of the United States. Therefore, the committee is of opinion that this Convention has no power to exempt any property from the payment of debts, which were liable therefor at the time they were contracted.

Whilst the committee entertains the opinions expressed as to existing obligations, it has no doubt of the authority of the Convention to increase the exemptions as to debts hereafter made, and being desirous to extend relief in all cases where it is competent to do so, and to provide a homestead which will secure a home to our citizens and their families against all future liabilities, the committee recommend that the following provisions be inserted in the Constitution of the State :

PROPERTY EXEMPT FROM DEBT.

1. There shall be exempt from levy, seizure or sale, for all debts contracted and liabilities incurred after the ratification of this Constitution, in favor of housekeepers and heads of families, a homestead, not exceeding twelve hundred dollars in value, which shall be designated, held, enjoyed and alienated in the mode prescribed by law.

2. One hundred dollars per annum of the wages or compensation which may accrue to laborers and mechanics, after the ratification of this Constitution, shall be exempt from all liability for debts contracted thereafter: Provided, that these exemptions shall not apply to any State taxes, or to any county or corporation levies that may be due from the persons claiming the benefit thereof.

Respectfully submitted,

C. Y. THOMAS, *Chairman.*

February 14, 1868.

REPORT
OF
COMMITTEE ON EDUCATION
AND
FUNDS RELATING THERETO.

ARTICLE —.

EDUCATION AND FUNDS RELATING THERETO.

SECTION 1. The General Assembly shall elect, in joint ballot, within thirty days after its organization under this Constitution, and every fourth year thereafter, a Superintendent of Public Instruction. He shall have the general supervision of the public free school interests of the State, and shall report to the General Assembly, for its consideration, within thirty days after his election, a uniform system of public free schools.

SEC. 2. There shall be a board of education, composed of the Governor, Superintendent of Public Instruction and Attorney-General, which shall appoint, and have power to remove, subject to confirmation by the Senate, all county superintendents of public free schools. This board shall have regulated, by law, the management and investment of all school funds, and such supervision of schools of higher grades as the law shall provide.

SEC. 3. The General Assembly shall provide by law, at its first session under this Constitution, for the division of each county into convenient school districts, and a uniform system of public free schools, and for its gradual, equal and full introduction into all the counties of the State, by the year 1874, or as much earlier as practicable.

SEC. 4. The General Assembly shall have power, after a full introduction of a public free school system, to make such laws as shall not permit parents and guardians to allow their children to grow up in ignorance and vagrancy.

SEC. 5. The General Assembly shall establish, as soon as practicable, normal and agricultural schools, and shall have power to establish such grades of schools from the primary to the University, as shall be for the public good.

SEC. 6. The General Assembly shall have power to provide for uniformity of text-books, and for the building of school-houses, the procuring of school-libraries and of school apparatus, out of the public school funds of the State, or in such other manner as shall be equitable and for the public good.

SEC. 7. The General Assembly shall set apart, as a permanent and perpetual "literary fund," the present literary funds of the State, the proceeds of all public lands donated by Congress for public school purposes, of all escheated property, of all waste and unappropriated lands, of all property accruing to the State by forfeiture, and all fines collected for offences committed against the State, and such other sums as the General Assembly may appropriate.

SEC. 8. The General Assembly shall apply the annual interest on the literary fund, any capitation or other special tax provided for by this Constitution for public free school purposes, and an annual tax upon the property of the State of not less than one mill on the dollar, for the equal benefit of all the people of the State, the number of children between the ages of five and twenty-one years in each public free school district being the basis of such division. Each county and public free school district may raise additional sums by a tax on property for the support of public free schools. All unexpended sums of any one year in any public free school district, shall go into the general school fund for re-division the next year.

SEC. 9. The General Assembly shall have power to foster all higher grades of schools under its supervision, and to provide for such purpose a permanent educational fund.

SEC. 10. All donations and grants received by the General Assembly for educational purposes, shall be applied according to the terms prescribed by the donors.

SEC. 11. The General Assembly shall fix the salaries and prescribe the duties of all school officers, and shall make all needful laws and regulations to carry into effect the public free school system provided for by this article.

Respectfully submitted,

L. M. NICKERSON, *Chairman.*

REPORT

OF THE

COMMITTEE ON PUBLIC INSTITUTIONS,

WITH ACCOMPANYING PAPERS.

To the Hon. President and members of the Convention :

Your Committee on Public Institutions, having fully considered the resolution concerning the Eastern Lunatic Asylum, offered by Mr. Toler, of Hanover and Henrico, (See Doc. marked, "A") beg leave to submit the following report and annexed copies of its correspondence.

A communication (marked "B") was addressed to the Hon. Wm. F. Taylor, 1st Auditor of the State, on the 17th of January 1868, to which, on January 18th, the following answer was received, viz :

"RICHMOND, January 18th, 1868.

"WILLIAM JAMES, Esq.,

"Chairman Committee on Public Institutions :

"SIR :

"Your communication, embodying the following resolution of the Convention, to wit :

"*Resolved*, That the Committee on Public Institutions be instructed to inquire into the status, funds, and present management of the said Eastern Lunatic Asylum, with a view to its transfer to civil authority,"

—is received.

"I beg leave to reply to the several points enumerated in the resolution, reversing the order in which they occur.

"1st. In respect to the *permanent management* of the Eastern Lunatic Asylum, it is not in my power to furnish any information. The 4th section, chapter 85 of the Code of Virginia, edition 1860, gives to the Governor the power to appoint and commission the directors in the lunatic asylums, and to fill vacancies. The management of these asylums is committed to their several Boards of Directors, who are required to make a report of their proceedings annually to the General Assembly, through the Governor. The Directors of the Eastern Lunatic Asylum appointed by the Governor, were recently removed by order of General Schofield, for reasons set forth in his General Order recently issued and published in our city papers. I do not remember the date, but a copy of the order can, I presume, be very easily procured from Headquarters.

"2d. *The Funds.* The appropriation made by the last General Assembly to the Eastern Lunatic Asylum was \$60,000, and the amount of the pay-patient fund. The bill authorizes one-fourth ($\frac{1}{4}$) of this sum to be paid in advance on

the 1st of October, one-half ($\frac{1}{2}$) the 1st January if the Directors so require, and the residue on the 1st July thereafter. Of the first instalment, to wit, that of October, five thousand dollars have been paid; the payment of any further sum was interdicted for the present, by an order from General Schofield. There is therefore now due, under the State law, to the Eastern Lunatic Asylum—

October quarter, balance.	-	-	-	-	-	-	\$ 10,000
January quarter, if the Directors require it,	-	-	-	-	-	-	30,000
Making a total of							\$ 40,000

"The accounts of the Treasurer of the Asylum have been audited by the Military Board to the 31st December last, and transmitted to this office as the law directs. The account shows a balance due the Treasurer of \$81 26.

"3d. In respect to what you designate the status of the Asylum, I am somewhat at a loss to understand you. If you will indicate more specifically what information you desire under that head, other than I have already given, I will furnish it with pleasure if it can be done from the books and accounts in this office.

"I am, very respectfully,

"(Signed)

"WM. F. TAYLOR, Auditor."

It being found necessary to have a copy of the General Order of the Commanding General removing the Board of Directors appointed by the Governor, in pursuance of the provisions of law, and supplying their places with United States officers, a communication was therefore, on January 20th, 1868, addressed to Major-General Schofield. (See appended document marked "C.") Up to February 4th, no answer being received, a second communication (document marked "D") was sent to the Commanding General, which elicited the following reply, viz:

"HEADQUARTERS FIRST MILITARY DISTRICT, STATE OF VIRGINIA,

"RICHMOND, VA., February 6th, 1868.

"MR. WILLIAM JAMES.

"*Chairman of Committee on Public Institutions, Virginia State Convention,*
"*Richmond, Va.:*

"SIR:

"I am directed by the Commanding General to acknowledge the receipt of your communications of January 20th and February 4th, 1868, the former requesting that 'the Committee on Public Institutions be furnished with all information concerning the Eastern Lunatic Asylum that the Commanding General has in his possession, covering the appointment of its present, and the cause of the removal of its late officers, its present management, &c.,' and the latter transmitting a copy of a resolution of the Convention to the effect that 'the Committee on Public Institutions be instructed to inquire into the *status*, funds and present management of the Eastern Lunatic Asylum, with a view to its transfer to civil authority,' and stating that 'in considering the matter it is found necessary to have a copy of the order removing the civil Board of Directors and filling their places with United States officers.'

"In reply, I am directed to say that 'the *status*, funds and present management of the Eastern Lunatic Asylum' are under the direction and control of the Commanding General of the Military District, and are, therefore, not proper subjects of inquiry by the Convention. It does not appear what connec-

tion can exist between the order you think it necessary for you to have and the duties imposed upon the Convention by the Acts of Congress.

“Very respectfully,

“Your obedient servant,

“(Signed) J. A. CAMPBELL,

“*Brevet Lieutenant-Colonel United States Army,*

“*Acting Assistant Adjutant-General.*”

Your Committee, believing that all the facts in the case that can be obtained are herein set forth, respectfully request that they be relieved from its further consideration.

Respectfully submitted.

WILLIAM JAMES, *Chairman.*

[A.]

RESOLUTION OFFERED BY MR. TOLER (OF HANOVER
AND HENRICO COUNTIES) CONCERNING THE EAST-
ERN LUNATIC ASYLUM.

WHEREAS, The institution known as the Eastern Lunatic Asylum, situated at Williamsburg, Virginia, receives the support of the State of Virginia; and, whereas, it is now in the hands and under the management of the military authorities: therefore,

Resolved, That the Committee on Public Institutions be instructed to inquire into the status, funds, and present management of the said Eastern Lunatic Asylum, with a view to its transfer to civil authority.

[B.]

COPY OF LETTER TO HON. WILLIAM F. TAYLOR, FIRST
AUDITOR OF VIRGINIA, CONCERNING EASTERN LUNA-
TIC ASYLUM.

STATE CONSTITUTIONAL CONVENTION OF VIRGINIA,
RICHMOND, VA., January 17, 1868.

WILLIAM F. TAYLOR, *First Auditor of Virginia*:

SIR—

The following resolution having been referred to this committee, I beg
that you will furnish the information desired :

Resolved, That the Committee on Public Institutions be instructed to inquire
into the status, funds, and present management of the said Eastern Lunatic
Asylum, with a view to its transfer to civil authority.

(Signed) I am, most respectfully,

WILLIAM JAMES,
Chairman of Committee on Public Institutions.

[C.]

COPY OF LETTER TO MAJOR-GENERAL SCHOFIELD,
JANUARY 20, 1868, CONCERNING THE EASTERN LUNATIC ASYLUM.

STATE CONSTITUTIONAL CONVENTION OF VIRGINIA,
RICHMOND, VA., January 20, 1868.

MAJOR-GENERAL J. M. SCHOFIELD, *Commanding First Military District:*

SIR—

I have the honor to request that the Committee on Public Institutions be furnished with all the information concerning the Eastern Lunatic Asylum that you have in your possession, covering the appointment of its present officers, its management, &c.

Very respectfully, your obedient servant,

(Signed)

WILLIAM JAMES,
Chairman of Committee on Public Institutions.

[D.]

COPY OF LETTER TO J. M. SCHOFIELD, MAJOR-GENERAL, COMMANDING FIRST MILITARY DISTRICT, FEBRUARY 4, 1868, CONCERNING EASTERN LUNATIC ASYLUM.

ROOM OF COMMITTEE ON PUBLIC INSTITUTIONS,
STATE CONSTITUTIONAL CONVENTION OF VIRGINIA,
RICHMOND, VA., February 14, 1868.

J. M. SCHOFIELD, *Major-General U. S. A., Commanding First Military District:*

SIR—

The following resolution has been referred to this committee, viz :

Resolved, That the Committee on Public Institutions be instructed to inquire into the status, funds, and present management of the Eastern Lunatic Asylum, with a view to its transfer to civil authority.

I have the honor to state, that in considering the above resolution, it is found necessary to have a copy of your order removing the civil Board of Directors and filling their places with United States officers.

Very respectfully, your obedient servant,

(Signed)

WILLIAM JAMES,
Chairman.

REPORT

OF THE

JUDICIARY COMMITTEE.

JUDICIARY DEPARTMENT.

I. There shall be a supreme court of appeals, circuit courts and county courts. The jurisdiction of these tribunals, and the judges thereof, except so far as the same is conferred by this Constitution, shall be regulated by law.

COURT OF APPEALS.

II. The supreme court of appeals shall consist of five judges, any three of whom may hold a court. It shall have appellate jurisdiction, except in cases of *habeas corpus*, *mandamus* and prohibition. It shall not have jurisdiction in civil cases where the matter in controversy, exclusive of costs, is less in value or amount than five hundred dollars, except in controversies concerning the title or boundaries of land, the probate of a will, the appointment or qualification of a personal representative, guardian, committee or curator; or concerning a mill, roadway, ferry or landing; or the right of a corporation or of a county to levy tolls or taxes, and except in cases of *habeas corpus*, *mandamus* and prohibition, or the constitutionality of a law.

III. Special courts of appeals, to consist of not less than three nor more than five judges, may be formed of the judges of the supreme court of appeals and of the circuit courts, or any of them, to try any cases on the dockets of said court, in respect to which a majority of the judges thereof may be so situated as to make it improper for them to sit on the hearing of the same; and also to try any cases on the said docket which cannot be otherwise disposed of with convenient dispatch.

IV. When a judgment or decree is reversed or affirmed by the supreme court of appeals, the reasons therefor shall be stated in writing, and preserved with the record of the case.

V. The judges shall be chosen by the joint vote of the two houses of the General Assembly, and shall hold their office for a term of twelve years. They shall, when chosen, be at least thirty years of age, and shall have held a judicial station in the United States, or shall have practiced law in this State for five years next before their election.

VI. The officers of the supreme court of appeals shall be appointed by the said court, or by the judges thereof in vacation. Their duties, compensation and tenure of office shall be prescribed by law.

VII. The supreme court of appeals shall hold its sessions at two places in the State, to be fixed by law.

VIII. The Attorney-General of the State shall be appointed by the supreme court of appeals, and shall hold his office for a term of four years. He shall be commissioned by the Governor, shall perform such duties and receive such compensation as may be prescribed by law, and be removed from office in the manner prescribed for the removal of judges.

CIRCUIT COURTS.

IX. The State shall be divided into sixteen judicial circuits as follows :

1. The counties of Norfolk, Princess Anne, Nansemond, Isle of Wight, Southampton, Surry and the city of Norfolk shall constitute the first circuit.

2. The counties of Sussex, Greensville, Brunswick, Prince George, Dinwiddie, Nottoway, Chesterfield and the city of Petersburg shall constitute the second circuit.

3. The counties of Mecklenburg, Lunenburg, Charlotte, Amelia, Powhatan, Prince Edward, Buckingham and Cumberland shall constitute the third circuit.

4. The counties of Halifax, Pittsylvania, Henry, Patrick, Franklin and the town of Danville shall constitute the fourth circuit.

5. The counties of Bedford, Campbell, Appomattox, Amherst, Nelson and the city of Lynchburg shall constitute the fifth circuit.

6. The counties of Albemarle, Fluvanna, Culpeper, Goochland, Madison, Greene and Orange shall constitute the sixth circuit.

7. The county of Henrico and the city of Richmond shall constitute the seventh circuit.

8. The counties of Accomac, Northampton, York, Elizabeth City, Warwick, James City, New Kent, Charles City and the city of Williamsburg shall constitute the eighth circuit.

9. The counties of Lancaster, Northumberland, Mathews, Middlesex, Gloucester, King William, Essex and King & Queen shall constitute the ninth circuit.

10. The counties of Westmoreland, Spotsylvania, Caroline, Hanover, Stafford, King George, Richmond and Louisa shall constitute the tenth circuit.

11. The counties of Loudoun, Fauquier, Fairfax, Prince William, Rappahannock and the city of Alexandria shall constitute the eleventh circuit.

12. The counties of Frederick, Clarke, Warren, Page, Shenandoah and Rockingham shall constitute the twelfth circuit.

13. The counties of Augusta, Rockbridge, Bath, Highland and Alleghany shall constitute the thirteenth circuit.

14. The counties of Botetourt, Roanoke, Montgomery, Floyd, Giles and Craig shall constitute the fourteenth circuit.

15. The counties of Carroll, Grayson, Wythe, Pulaski, Bland and Tazewell shall constitute the fifteenth circuit.

16. The counties of Smyth, Washington, Lee, Scott, Wise, Russell and Buchanan county shall constitute the sixteenth circuit.

X. The General Assembly may re-arrange said circuits, or any of them, and increase the number thereof, when the public interests shall require it.

XI. For each circuit a judge shall be chosen by the joint vote of the two houses of the General Assembly, who shall hold his office for a term of eight years, unless sooner removed in the manner prescribed by this Constitution. He shall, when chosen, be at least thirty years of age, and possess the same qualifications of judges of the supreme court of appeals; and at the time of his election and during his continuance in office, shall reside in the circuit of which he is judge.

XII. A circuit court shall be held, at least twice a year, by the judges of each circuit, in every county and corporation thereof, wherein a circuit court is now or may hereafter be established. But the judges may be required or authorized to hold the courts of their respective circuits alternately, and a judge of one circuit to hold a court in any other circuit.

COUNTY AND CORPORATION COURTS.

County Courts.

XIII. In each county of this Commonwealth there shall be a court, called the county court, which shall be held monthly by a judge learned in the law of the State, and to be known as the county court judge: Provided, that counties containing less than ——— thousand inhabitants shall be attached to adjoining counties for the formation of districts for county judges. County court judges shall be appointed in the same manner as judges of the circuit courts; shall hold their office for a term of eight years; and, at the time of election and during continuance in office, shall reside in their respective counties or districts. The jurisdiction of said courts shall be the same as that of the existing county courts, except so far as it is modified by this Constitution, or may be changed by law.

Corporation Courts.

XIV. The General Assembly may vest such jurisdiction as may be deemed necessary in corporation courts, which shall be held by a judge chosen in the same manner, with like qualifications and for same terms as judges of county courts. And all officers appertaining to cities and other municipal corporations, shall be elected or appointed by the constituted authorities thereof in the manner prescribed by law.

XV. All the judges shall be commissioned by the Governor, and shall receive fixed and adequate salaries, which shall not be diminished during their continuance in office. The salary of a judge of the supreme court of appeals shall not be less than four thousand dollars per annum, that of a circuit judge not less than three thousand dollars per annum, and that of a judge of a county, district or corporation court shall not be less than ——— thousand dollars per annum, and each shall receive a reasonable allowance for necessary travel.

XVI. Judges may be removed from office by a concurrent vote of both houses of the General Assembly, but a majority of all the members elected to each house must concur in such vote, and the cause of removal shall be entered on the journal of each house. The judge against whom the General Assembly may be about to proceed, shall have notice thereof, accompanied by a copy of the causes alleged for his removal, at least twenty days before the day on which either house of the General Assembly shall act thereon.

XVII. The judge of each court shall appoint the clerk and commonwealth's attorney thereof, whose term of office shall be six years.

XVIII. Judges and all other officers, elected or appointed, shall continue to discharge the duties of their offices after their terms of service have expired, until their successors have qualified.

XIX. Writs shall run in the name of the Commonwealth of Virginia, and be attested by the clerks of the several courts. Indictments shall conclude against the peace and dignity of the Commonwealth.

Should the Convention determine to adhere to the present county court sys-

tem, and decline to require that that court shall be held by a county judge, as provided for in this report, as well as in the two reports of the Committee on County Courts and County Organizations, then, and in that event, this committee recommend that the number of judicial circuits be increased to twenty-nine, and that the judges thereof hold four terms per annum in each county and corporation embraced in their respective circuits; and for that purpose that the State be laid off into twenty-nine judicial circuits as follows :

CIRCUIT COURTS.

1. The counties of Princess Anne, Nansemond, Norfolk county and Norfolk city shall constitute the first circuit.
2. The counties of Southampton, Isle of Wight, Surry, Sussex and Greenesville shall constitute the second circuit.
3. The counties of Brunswick, Mecklenburg, Nottoway and Lunenburg shall constitute the third circuit.
4. The counties of Halifax, Charlotte, Pittsylvania and the town of Danville shall constitute the fourth circuit.
5. The counties of Henry, Franklin and Patrick shall constitute the fifth circuit.
6. The counties of Bedford, Campbell and the city of Lynchburg shall constitute the sixth circuit.
7. The counties of Chesterfield, Powhatan, Cumberland and Amelia shall constitute the seventh circuit.
8. The counties of Buckingham, Prince Edward, Appomattox and Amherst shall constitute the eighth circuit.
9. The counties of Accomac, Northampton, Elizabeth City and Warwick shall constitute the ninth circuit.
10. The counties of Dinwiddie, Prince George and the city of Petersburg shall constitute the tenth circuit.
11. The counties of Gloucester, Charles City, New Kent, James City, York and Williamsburg shall constitute the eleventh circuit.
12. The counties of Mathews, Middlesex, Lancaster, Northumberland and Richmond shall constitute the twelfth circuit.
13. The county of Henrico and the city of Richmond shall constitute the thirteenth circuit.
14. The counties of Hanover, Louisa and Goochland shall constitute the fourteenth circuit.
15. The counties of King William, King and Queen, Essex and Westmoreland shall constitute the fifteenth circuit.
16. The counties of Spotsylvania, Caroline, Stafford and King George shall constitute the sixteenth circuit.
17. The counties of Alexandria, Fairfax and Prince William shall constitute the seventeenth circuit.
18. The counties of Fauquier and Loudoun shall constitute the eighteenth circuit.
19. The counties of Orange, Madison, Rappahannock and Culpeper shall constitute the nineteenth circuit.
20. The counties of Albemarle, Fluvanna and Greene shall constitute the twentieth circuit.
21. The counties of Frederick, Clarke and Warren shall constitute the twenty-first circuit.

22. The counties of Rockingham, Shenandoah and Page shall constitute the twenty-second circuit.

23. The counties of Augusta and Nelson shall constitute the twenty-third circuit.

24. The counties of Rockbridge, Bath, Highland and Alleghany shall constitute the twenty-fourth circuit.

25. The counties of Botetourt, Roanoke, Craig and Giles shall constitute the twenty-fifth circuit.

26. The counties of Montgomery, Carroll, Floyd and Pulaski shall constitute the twenty-sixth circuit.

27. The counties of Wythe, Bland, Tazewell and Buchanan shall constitute the twenty-seventh circuit.

28. The counties of Washington, Smyth and Grayson shall constitute the twenty-eighth circuit.

29. And the counties of Russell, Lee, Scott and Wise shall constitute the twenty-ninth circuit.

Respectfully submitted,

C. Y. THOMAS,
Chairman.

REPORT
OF THE
COMMITTEE ON PUBLIC INSTITUTIONS
IN RELATION TO THE
VIRGINIA MILITARY INSTITUTE.

ROOM OF THE COMMITTEE ON PUBLIC INSTITUTIONS,
STATE CONSTITUTIONAL CONVENTION OF VIRGINIA,
RICHMOND, VIRGINIA, *March 5, 1868.*

To the Honorable the State Constitutional Convention of Virginia:

Your Committee on Public Institutions beg leave to submit the following report on the resolution of Mr. Carr, of Dinwiddie county:

“Resolved, That the property known as the Virginia Military Institute ought to be obliterated, and the property and funds of the same be converted into a fund for the benefit of common schools.”

The following correspondence of the committee is respectfully submitted:

“STATE CONSTITUTIONAL CONVENTION OF VIRGINIA,
“RICHMOND, VA., *January 7, 1868.*

“J. M. HERNDON, Esq., *Secretary of the Commonwealth:*

“SIR:

“In a session of the Committee on Public Institutions, the following resolution was adopted, viz:

“*Resolved, That a communication be addressed to the Secretary of the Commonwealth, making inquiry in regard to the Virginia Military Institute, its status, endowment and the State’s interest in the said institution, and also under whose management the Institute is at present.*”

“I therefore beg that you will, in accordance with the above, furnish, at as early a date as practicable, all the information that you can procure.

“I am, very respectfully,

“Your obedient servant,

“(Signed)

WM. JAMES,

“*Chairman of Committee on Public Institutions.*”

To the above the following answer was received, viz :

“ OFFICE OF THE SECRETARY OF THE COMMONWEALTH,
“ RICHMOND, VA., *January 8, 1868.*

“ WM. JAMES, ESQ., *Chairman, &c.*

“ SIR :

“ In compliance with the request contained in the resolution adopted by the Committee on Public Institutions of the State Constitutional Convention of Virginia, a copy of which is contained in your letter of the 7th instant, I have to state, that from the best information which I have been able to obtain in regard to the *status* and endowment of the Virginia Military Institute, it was established by the State of Virginia and organized as a State military and scientific school under an act of the General Assembly passed March 29th, 1839. The cadets admitted into the school consist of two classes, viz : *State* and *pay* cadets.

“ The Institute supplies to the *State* cadet his board and tuition, and in consideration thereof, he is required to teach two years after graduation.

“ Such cadets are selected by the Board of Visitors from young men in different sections of the State, who are unable to bear their own expenses.

“ The number of *State* cadets is now 36, and of *pay* cadets is 214.

“ The State makes an annual appropriation of \$15,000 for the support of the Institute. This sum supplies tuition and board to the *State* cadets without charge, and supports, by the aid of tuition fees and the income from vested funds, the Faculty.

“ In 1860 a donation of \$20,000 was made to the Institute by General Philip St. George Cocke for the endowment of a chair of agriculture ; and in the same year a donation of \$11,800 was made by Dr. Wm. A. Mercer, of Louisiana, to endow a chair of animal and vegetable physiology applied to agriculture. A donation was also made by Mrs. E. L. Claytor, of Virginia, of \$5,000, to erect a hall of natural history.

“ The Institute is managed by a Board of Visitors, appointed by the Governor, and consists at present of the following persons, viz : John Letcher, (President of the Board) of Lexington ; Wm. H. Macfarland, of Richmond ; Waller R. Staples, of Christiansburg ; George W. Bolling, of Petersburg ; A. C. Cummings, of Abingdon ; Zeph. Turner, of Rappahannock county ; Wm. L. Owen, of Halifax county ; Richard H. Catlett, of Staunton ; and Wm. H. Richardson, Adjutant-General, (*ex-officio*) of Richmond.

“ I am, very respectfully,

“ Your obedient servant,

“ (Signed) J. M. HERNDON,
“ *Secretary of the Commonwealth.*

The following is a copy of a letter addressed to the Superintendent of the Institute, F. H. Smith, Esq. :

“ STATE CONSTITUTIONAL CONVENTION OF VIRGINIA,
“ RICHMOND, VA., *February 4, 1868.*

“ F. H. SMITH, ESQ., *Supt. of the Va. Military Institute :*

“ SIR :

“ The Committee on Public Institutions have expressed their desire that a communication should be addressed to you in your official character

as the Superintendent of the Virginia Military Institute, for such information as may be in your power to give, relating to the *status* (past and present) of the Institute, for the purpose of enabling them to place a correct report before the Convention in answer to a resolution which was referred to us.

“Very respectfully,

“Your obedient servant,

“(Signed) WM. JAMES, *Chairman.*”

The following was the reply of General Smith, the Superintendent :

“VIRGINIA MILITARY INSTITUTE, Feb. 10, 1868.

“WM. JAMES, ESQ., *Chairman, &c., Com. Pub. Institutions,*

“*Constitutional Convention, Richmond, Va.:*

“SIR :

“I have the honor to acknowledge the receipt of your communication of the 4th instant, expressing the desire of the Committee on Public Institutions to receive from me, as Superintendent of the Virginia Military Institute, such information as I may be able to give in relation to the *status* (past and present) of the Institute, with the view of placing before the committee a correct report in relation to the resolution submitted to the consideration of the committee.

“In obedience to this call, I respectfully submit the following response :

“The Virginia Military Institute, from the foundation in 1839, has been a practical scientific school, under military organization, controlled by the State of Virginia.

“Its aim has been essentially, 1st, to provide competent teachers for the schools of the Commonwealth, as a State *normal* school; 2d, to promote the agricultural interests of the State, by imparting a practical education for the farmer; 3d, to train *civil engineers* to construct the works of internal improvements of the State; 4th, as incidental to its military government, to provide competent officers for the State militia. This brief outline of its general character shows that the Virginia Military Institute is a practical school, organized and regulated to meet the wants of the *industrial classes*, including in this designation the teacher, the farmer, the merchant, the manufacturer, the civil engineer and the miner, and its courses of study and methods of instruction have been carefully prepared to meet these important ends. As illustrations of the work of the school in this especial field, I would say that 350 poor young men, some of whom have been taken from the plough, the tailor’s board and the work-shop, many of them without resources of any kind, and have been here trained for usefulness and distinction; all of whom, save *two*, have first taught in the schools of the State, as required by law, and thus aided in improving and developing the educational interests of the State; others have built our railroads and canals; others again engaged in mining and like industrial pursuits; and they have exhibited a capacity for their distinctive work which has been so marked as to place them in positions of eminence and expansive usefulness. Besides these, 2,000 others have been educated as *pay* cadets, and these have contributed their share in developing all the great interests contemplated by the organization of this school.

“Such a work, so necessary to the State, and so satisfactorily executed, could not fail to attract the public attention of those whose views corresponded with this mode of developing the State’s highest interests; and the result was, that

benefactions came in, in aid of the school, and donations were made by citizens of Virginia, and by a citizen of Louisiana, amounting to \$40,000, *in trust* for the further extension of the schools of application for the industrial classes.

“Such was the work in which the Virginia Military Institute was actively and effectively engaged when, by the calamities of war, its buildings, library, philosophical and chemical apparatus and furniture were entirely destroyed, leaving the school a complete wreck, without funds, without a dormitory and without a book.

“At the close of the war, His Excellency Governor Pierpoint immediately appointed a new Board of Visitors. He could give no pecuniary aid to enable them to restore the ruin around them, and they went to their work without any other hope except that which was founded upon the *labors* of the professors themselves.

“The school was re-opened in October, 1865. Some 50 or 60 young men attended, and these had to be quartered in the neighboring town. Although working thus, without any of the material essential to a public school, the result was so satisfactory that the Legislature, at its next session, restored the annuity of \$15,000, and thus enabled the Board of Visitors to call back the *State* cadets. In the mean time the Faculty, realizing the absolute necessity of having lecture-rooms and dormitories, proposed to the Board of Visitors to relinquish *one-third* of their salaries as a temporary loan to the Board in aid of the restoration of the buildings. This proposition was promptly accepted by the Board, and on the faith of this tender money has been borrowed to restore most of the barracks, refit the chemical and mineralogical laboratories, engineering and drawing academy, purchase books for the library and philosophical and engineering instruments, reconstruct the hospital, and restore the heating apparatus which had been destroyed when the buildings were burnt.

“By these means provision has been made for the comfortable accommodation of some 280 young men matriculated during the present session, and the work is still actively in progress, and we shall hope to have the whole completed by the end of another year.

“The funds used for the prosecution of this work are for the material and outfit of the school, have been derived *exclusively from private sources, and without encroaching to the value of one dollar upon the public funds of the State.* The buildings erected and materials purchased constitute the security to the bondholders, and it is believed that, with the continuance of the prosperity now enjoyed by it, which we have every reason to anticipate, every dollar of debt contracted in the restoration of the school may be met by the 1st of July, 1871, or soon after, and the property restored to the State in the same condition it was in before it was burned, and without involving any charge upon the public treasury of the Commonwealth.

“Besides the debt due for the construction of the barracks, there is due to Northern merchants for supplies to the school before the war, and payment for which was interrupted by the war, a balance of about \$10,000, which I am instructed by the Board of Visitors to settle as quickly as possible.

“As exhibiting still further the present *status* of the school, I have the pleasure to add that the cadets of the Institution have exhibited, in the most conspicuous manner, order and respectful regard to lawful authority. The rights of no human being have been invaded in any one particular case, and the Insti-

tution has commanded the approval of all who have had the means to witness its operation for the last three years.

“As a further means of enabling the committee to ascertain the present *status* of the school, I communicate with this letter a copy of the report of the Board of Visitors to the Governor, of July, 1867. An examination of this will show that the Institute is prosecuting its work, by a distribution of instruction among 24 professors and assistant professors, having charge of departments: mathematics, engineering, geography, Latin language and literature, modern languages, applied mechanics, agriculture, tactics, natural philosophy, mineralogy, geology and chemistry.

“Some 280 matriculates have been admitted this year, about 150 from Virginia and 130 from other States, and these have required disbursements among our people of about \$150,000 annually, one-half of which has been brought into the State by students from other States.

“I remain, very respectfully,

“(Signed) FRANCIS H. SMITH, *Supt.*”

Your committee also have considered, in connection with the above correspondence, the report for 1867 of the Board of Visitors of the Virginia Military Institute, and find that, according to their estimate of receipts and liabilities for the fiscal year commencing the 1st of July, 1867, and ending the 30th of June, 1868, that the help of the appropriations of the State are not absolutely necessary for the existence of the Institute. The following extract from the estimate will explain itself:

“The total receipts are estimated at.....	\$36,700 00	
Subtract the State's annual appropriation.....	15,000 00	
Making actual receipts from itself.....	—————	21,700 00
The estimate of liabilities for the same period are.....	25,775 00	
Subtract the cost of board, tuition, &c., of 35 State cadets,	5,250 00	
Making a total of the liabilities.....	—————	20,525 00

Leaving a balance in favor of the Institute of..... \$1,175 00”

Your committee having fully and carefully considered the resolution of Mr. Carr, make the above report of the facts in its possession, and recommend that the Institute, being, by their own estimate, a self-supporting one, be relieved from any legal liability to receive free State cadets; that the further annual appropriation of \$15,000 be discontinued, and that the Institute be given over to any further action of the Committee on Education.

Your committee beg leave to be relieved from the further consideration of the subject.

Respectfully submitted,

WM. JAMES, *Chairman.*

R E P O R T
OF THE
SPECIAL COMMITTEE ON INVESTIGATION;
TOGETHER WITH THE
MINORITY REPORT
AND
TESTIMONY BEFORE THE COMMITTEE.

COMMITTEE ROOMS, FEBRUARY 29, 1868.

The undersigned, a committee appointed by your body to investigate and report all matters pertinent to the reporting, and printing (so far as it had any connection therewith) of the Proceedings and Debates of this body, would respectfully report :

That, after a full investigation of all the facts in the case, as far as they could get hold of them, the said reporting has cost, up to the 10th day of February, 1868, \$4,395.60, besides the cost of printing.

In charging and drawing the said amount by Mr. Samuel, the Stenographer, your committee would report that he has not gone beyond his contract, as he seems to have understood it, except in the matter of drawing pay for notes not at the time prepared for the printer. This he appears to have done. But your committee would state, that he had at the time a considerable sum still due him for other notes in a similar condition, which he considered sufficient to indemnify the Convention for any accident that might occur to him—that is, if the Convention had been compelled to employ any one else to prepare those notes for the printer. And while your committee are of the opinion that such course on his part was improper, yet, in view of the above facts, they attach no criminality to him.

Your Committee further find, that owing to the very loose character of the contract made with Mr. Samuel by the Committee on Finance and Contingent Expenses, he has charged and been paid a large amount—perhaps one-third of the whole drawn—for reports of committees, printed and other matter furnished him by the officers of the Convention, for which nothing should have been paid. Mr. Samuel understanding that he was to receive pay for these things, your committee attach no blame to him on that account. But they do attach great blame to the chairman of the Committee on Printing, Mr. Edgar Allan.

It appears that Mr. Allan would present Mr. Samuel's accounts to his com-

mittee, assure them that they were correct and had been examined by him, and that upon these assurances of Mr. Allan the committee would allow these claims, without any investigation by them.

It also appears that Mr. Allan has been in the employ of Mr. Samuel in preparing these reports, and that he received compensation therefor—but what amount your committee did not ascertain.

In this matter, your Committee, declining to say anything as to the propriety or impropriety on the part of Mr. Allan for so acting, would state it appears that Mr. Samuel had made several efforts to procure competent assistants before he employed Mr. Allan and failed to do so, and are, therefore, with the lights before them, unwilling to cast any blame upon him (Mr. S.) for his action in the premises.

Your Committee would further report, that in the matter of the printing done for the Convention, they are fully satisfied that the charges have been proper, and the same other printers would have charged. But they feel bound to report, inasmuch as the Proceedings and Debates constitute a considerable portion of said printing, that there is something in the action of Mr. Allan, chairman of the Committee on Printing, that they do not understand. They will therefore report the following facts, without any other comment:

It appears, from the evidence of three of the members of your body, that Mr. Allan has, on several occasions, stated that he had so managed the printing as to make it pay the printers some six or seven hundred dollars more than it otherwise would have done; and that he further said, that if the other side of the House had been sharp they would have detected it.

These witnesses were unable to say in what this “management” consisted, but understood that he was making for the printers more than the Convention intended to allow them. Whether this had any connection with the reporting and printing the Proceedings and Debates, your Committee would respectfully leave you to judge.

Your Committee would further state, that the reports have been made with the usual accuracy, except in a few instances, when, owing to the peculiar character of the speeches, the Reporter has been almost compelled to clothe them in his own language, getting the ideas of the speaker as nearly as possible.

Owing to the quantity of the evidence, your Committee have not deemed it necessary to lay the testimony before your body, but are prepared to furnish so much as reflects upon any member, when called for. They are of the opinion that the above report contains all the material facts.

HENRY M. BOWDEN, *Chairman*
EDWARD NELSON,
EUSTACE GIBSON.

FURTHER MAJORITY REPORT.

Your committee to whom was referred back the report formerly made, with instructions to take additional evidence, and to report fully their conclusions, beg leave to report further, in accordance with said instructions, that they have taken such evidence as Mr. Edgar Allan introduced, and allowed him to cross-examine such witnesses as he desired. But they have failed to elicit any evidence to change or alter the facts set forth in the former report. They do not regard the testimony of Mr. Painter as having any bearing on the case whatever. They are at a loss to know what Mr. Allan, chairman of the Committee on Printing had to do with the management and profit of Messrs. Hunnicutt's office.

They would further report, that Mr. Allan, to explain the evidence of Messrs. Ayer, Massie and Kelso, the three members referred to, introduced testimony proving that he had conversations with other men in which he stated that Mr. Hunnicutt's employees were fooling him, and that he, Mr. Allan, had detected it, and that had Mr. Hunnicutt been smart he would have done so. He further proved that he had suggested changes to Mr. Hunnicutt in the manner of doing his office work, which did not affect the Convention, but was a saving to the printer. And they would also report, that there is no evidence of any fraud whatever in the matter of printing, and beyond the evidence of the three members referred to, there is nothing showing anything improper in Mr. Allan in this matter of printing.

In conclusion, they would recommend a re-organization of the Committee on Printing; and that the committee then be required to re-measure Mr. Samuel's work, and deduct therefrom, and charge him for such matter as should not have been allowed.

HENRY M. BOWDEN,
J. H. PLATT, JR.
EUSTACE GIBSON,
JAMES M. FRENCH.

MINORITY REPORT.

The undersigned, members of the Special Committee appointed by your body on the 13th ultimo, in accordance with a resolution introduced by Mr. Bowden, to investigate matters pertaining to the amount paid the Stenographer, inquiring as to who audited the accounts, and other matters pertaining thereto, beg leave to present the following minority report :

In presenting this report we deem it proper to state that we are compelled, from a sense of duty, to dissent from the opinion of the majority in such particulars as we deem necessary to vindicate the character of individuals against whom charges have been made, and whose innocence the majority report does not make as prominent as the evidence would warrant.

Mr. Samuel has received for reporting \$4,395.60 up to this date—a larger amount than Mr. Samuel, the members of the Convention, or the Committee on Finance, with whom he made the contract, anticipated. This was owing, principally, to the fact that the debates and sessions were longer than it was thought they would be.

As the largeness of this amount has been the result of the peculiar nature of the Convention in regard to the amount of the Reporter's work, a fact that no one could foresee, we deem it but just and proper that no blame be attached to any person or committee on this account. It is the opinion of the undersigned that the reduction of the price for reporting, an action your body has already had, is all that need to be, or can justly, be done at this date.

As a further explanation of this matter, we deem it but proper to state that much of this sum—about one-third—has been paid to assistants, in order to prepare the work for the printer as rapidly as it was deemed necessary and proper.

In regard to having drawn pay for "reports of committees, printed and other prepared matter furnished by the officers of the Convention," the majority say that "Mr. Samuel did not go beyond his contract, as he understood it," thereby implying that he *did* go beyond the contract in that particular. They then refer to the Committee on Finance as not having made a proper contract in the particular referred to.

Now, this contract either did allow pay for this work or it did not ; if it did, Mr. Samuel did not go beyond his contract ; if it did not, then the Committee on Finance should not be censured for the "loose character of their contract."

The same may be said in defence of the Committee on Printing, the chairman of which is greatly blamed by the majority because his committee audited the accounts of Mr. Samuel so as to include this prepared matter. If the contract could be so construed as to cause its framers to be censured because it included this matter, then the Committee on Printing should not be

censured for auditing the accounts according to this construction. Hence, the majority have erred either in regard to the Committee on Finance or in regard to Mr. Samuel and the Committee on Printing.

Again, the majority make the Committee on Finance responsible for the allowance of pay for prepared matter on account of the "loose character of their contract," and then recommend, in their conclusion, that Mr. Samuel should be required to refund the money drawn for such work. If Mr. Samuel can be required to refund this money, it will be because the contract did not allow it. But if the contract did allow it, then the Convention cannot honestly or legally require him to refund it. And in this also the majority err, either in censuring the Committee on Finance, or in requiring the money for this particular kind of work to be refunded. The facts obtained from the evidence in this matter are such, that neither the Committee on Finance, Mr. Samuel or the Committee on Printing are censurable, for all acted in accordance with well established customs and usages in such matters; neither should the pay for reporting this prepared matter be refunded, for it is part of the Reporter's duty to look this over, punctuate and correct it, and besides this, it is, according to custom, included in the terms of the contract, which allows pay for reporting "*the Proceedings and Debates.*" What is spoken comes usually under the head of debates, and that this prepared matter comes under the head of proceedings there can be no question. And, as far as the committee could ascertain from the evidence, the Reporter is always allowed for such matter.

Mr. Edgar Allan, a member of this Convention, has been in the employ of Mr. Samuel a portion of the time, but we would attach no blame to him on this account; Mr. Samuel was unable to procure enough other assistance at the time, and the work was done by Mr. Allan as an accommodation, in order to hasten its preparation for the printer, and had it been otherwise it would have been a matter beyond the jurisdiction of this Convention or Committee to investigate, as it was entirely an individual arrangement between Mr. Samuel and Mr. Allan, with which the public or Convention had no more to do than with any other individual affair between any two persons in the business community.

In regard to Mr. Samuel drawing pay for work which was not entirely ready for the press, we beg leave to differ with the majority report, which accuses Mr. Samuel of an impropriety in so doing. It appears from the evidence, that it is customary, under such contracts, for the Stenographer's accounts to be made up from the manuscripts, when completed and ready for the printer, except, under certain circumstances, the accounts are made up from the stenographic notes; and it also appears from the evidence that the present was one of those circumstances under which it was customary to make out the account from the notes. As this occurred in but one instance, and that according to an established custom, and as Mr. Samuel did not draw pay for as much service as he had actually performed at the time, and as the interests of the State were sufficiently guarded, we deem it but just and proper to exonerate Mr. Samuel from all blame in this matter. The same reasoning and conclusions may be applied to the Committee on Printing, who audited this account.

In regard to the manner of reporting the speeches, it appears that Mr. Samuel has reported according to the established usages, and has faithfully discharged the duties of his office.

The majority report says: "It appears from the evidence of three of the members of your body, that Mr. Allan has, on several occasions, stated that he

had so managed the printing as to make it pay the printer some six or seven hundred dollars more than it otherwise would have done; and, that he further said, that if the other side of the House had been sharp, they would have detected it. These witnesses were unable to say in what this management consisted, but understood that it was making for the printer more than the Convention intended to allow him." We entertain a high regard for the veracity of these gentlemen, but from the further examination of explanatory evidence, it appears to the undersigned that Mr. Allan had suggested to Mr. Hunnicutt that a different arrangement in his office would save him a considerable amount, and, in these remarks referred to by these witnesses, he referred to this arrangement, instead of meaning any arrangement whereby more money was drawn from the State than would otherwise have been drawn. As evidence of the correctness of this view of this subject we refer to the following statement of the majority: "In the matter of the printing done for the Convention, they are fully satisfied that the charges have been proper, and the same as other printers would have charged." Again, they say, that there is no evidence of any fraud whatever in the matter of printing. And, as further proof of the correctness of the position taken by the minority of your Committee on this subject, we would state the fact, that from the evidence, it appears that instead of the printer defrauding the State, by the aid of Mr. Allan, the job is actually an unprofitable one.

The majority report censures the Committee on Printing for auditing accounts on the representation of the chairman. This is incorrect, from the fact, as appears from the evidence, that the Committee, though taking the representation of the chairman, (Mr. Allan) they kept watch of his representation by their own examinations, and taking the work, unbeknown to Mr. Allan, to other practical printers of the opposite party, who invariably said the accounts were correctly audited. Other measures were adopted to guard the public treasury in this particular. It would have been impossible for every one of the Committee to have examined every page of the manuscript. It also appears that no mistakes have occurred by the mode adopted by that Committee to ascertain the correctness of the accounts.

The majority report is contradictory in several particulars, one of which we will notice. In the first report, Mr. Allan, chairman of the Committee on Printing, is "greatly blamed" for the manner of representing and auditing the accounts of the Stenographer. In the second report, though there was no additional evidence on this point, they exonerate him from all blame except the remarks he had made about managing the printing so the printers could make more by it.

The majority represent that about one-third of the matter prepared for the printer by the Stenographer, in the reports of the Debates and Proceedings of the Convention, consists of "reports of committees, printed and other prepared matter, furnished by the officers of the Convention." After a thorough examination of this subject we are satisfied that this matter does not comprise more than one-tenth of the reports, and would state that there was no evidence before the Committee as to the proportion of prepared matter, from which the majority could arrive at any conclusion.

After a careful and impartial deliberation upon the evidence and all the facts and circumstances bearing upon this case, the minority of your Committee would respectfully recommend for adoption, by your body, the following:

Resolved, That this Convention do hereby exonerate from all blame all persons to whom the investigation of this Committee had reference.

All of which is respectfully submitted.

D. B. WHITE.

Before a mature deliberation upon the subjects embraced in the reports of this Committee, I attached my signature to the first report made by the majority ; but after hearing further evidence, and after careful reflection upon the whole subject, I hereby endorse the minority report, and attach to it my signature.

EDWARD NELSON.

RICHMOND, VA., March 7, 1868.

TESTIMONY

TAKEN BEFORE A SPECIAL COMMITTEE, APPOINTED
BY THE STATE CONSTITUTIONAL CONVENTION OF
VIRGINIA, IN PURSUANCE OF THE FOLLOWING RES-
OLUTION:

FEBRUARY 13th, 1868.

Mr. Bowden offered the following resolution :

Resolved, That a committee of seven be appointed to report to this Convention what amount has been paid for reporting proceedings of the same, and by whom the accounts have been audited, and all other matters pertinent thereto.

The resolution was adopted, and the following committee appointed :

Messrs. Bowden, White, Nelson, E. Gibson, Platt, French and Porter.

FEBRUARY 24th, 1868.

Present—Messrs. Bowden, White, Gibson, Nelson, French and Platt.

Mr. Platt examined and states—It was decided in the Republican caucus to employ a Stenographer ; I telegraphed to Mr. Tullock, the Chairman of the Executive Committee, that night ; next day Mr. Samuel arrived, bringing with him proper credentials.

Question by the Chair.—Do you know anything of anything made outside of the Convention with Mr. Samuel ?

Answer—I do not.

Q.—Do you know of any arrangement being made by which, if Mr. Samuel got the contract, he was to stump the State for the Republican party ?

A.—I do not. I never heard of such an arrangement.

Statement by Mr. Gibson.—I know nothing of the contract with Mr. Samuel beyond that officially before the Convention. Mr. Samuel gets about fifty cents per hundred words, including all printed or manuscript matter. I know that I could have furnished a competent reporter, who would have done the same work for twenty cents per hundred words, not including printed or manuscript matter, which would have cost nothing.

Mr. Platt, in answer to a question.—I know that Mr. Allen, Chairman of the Committee on Printing, who audits and certifies to Mr. Samuel's accounts, has been in the employ of Mr. Samuel, and received compensation for his services, as an amanuensis, in the business of reporting.

After those statements by members of the Committee, the Committee summoned Samuel F. Kelso, a member of the Convention, who, being duly affirmed, testified as follows :

Question by the Chair.—Do you know of any member of the Convention ever saying that he was either making anything for himself, or any one else, out of the printing ?

Answer.—A member of the Convention did meet me and others, in the Capitol Square, and say to us that he would save six or seven hundred dollars to old Hunnicutt, by the public printing. This was Mr. Allan.

The Committee ordered Mr. Brockmeyer, Mr. Painter and Mr. Hinton to be summoned, and then, upon motion, adjourned until February 15, at ten o'clock A. M.

FEBRUARY 15th, 1868.

The Committee met pursuant to adjournment.

Present—Messrs. Bowden, Platt, Porter, Gibson, French and Nelson.

Mr. Hinton being duly affirmed, in response to questions, testified as follows :

Question by the Chair.—Do you know anything about the contract with Mr. Samuel?

Answer.—Nothing but the wording of the ordinance gotten up by the Convention.

Q.—How far has he proceeded with the execution of his contract?

A.—I know nothing but by the certificate handed me, signed by the chairman of the Printing Committee.

Q.—Do you know how much he has received, and by whose authority the payments have been made?

A.—I do. I have issued him certificates on the Auditor to the amount of \$4,395; these were issued by the authority of the chairman of the Printing Committee—this was for the Proceedings and Debates up to and including February 10th, 1868, and for 1,320 pages.

Q.—Do you know anything of any member of the Convention being employed by Mr. Samuel to assist him in this matter, and if so, who?

A.—I have seen and known that Mr. Allan assisted Mr. Samuel, by copying from his dictation.

Q.—Do you know whether he, Mr. Allan, received any compensation for this work?

A.—I never saw him receive any.

Q.—Did you ever hear him say he received any?

A.—I did. I heard him say that he was able to make several dollars daily by writing for Mr. Samuel.

Q.—Did you ever hear any member of the Convention say that he, or any other member, was making, or had made any money out of the public printing?

A.—No member has ever admitted to me that he had made anything out of it; but I have heard several members say, that another was making by it.

Q.—Can you say who those members were?

A.—I cannot say certainly who they were.

Charles A. Brockmeyer, being duly affirmed, testified as follows :

Question by the Chair.—Do you know anything about the contract with Mr. Samuel, and if so, what?

Answer.—I know nothing.

Q.—Do you know whether any member of the Convention is, or has been employed by Mr. Samuel in his official capacity, and if so, whom?

A.—I do not.

Q.—Did you ever know any member of the Convention say that he, or any other member, was making anything out of the printing?

A.—I did not.

In answer to a question, Mr. Brockmeyer stated that he was clerk for the

Committee on Printing, and from what little he knew, he did not think that anything improper was going on about the printing, and also stated that he had worked three years at the printing business.

Mr. Bland being duly affirmed, testified as follows :

Question by the Chair.—Do you know of any member of the Convention being connected in any way with Mr. Samuel, in his official capacity?

Answer.—Before the recess a member told me that he either was or expected to be employed by Mr. Samuel to assist him, and expected compensation therefor.

Q.—Will you inform the committee who that member was?

A.—It was my colleague, Mr. Allan.

Q.—Did you ever hear any member of the Convention say that he was making anything for himself or any one else out of this public printing?

A.—I have not. I have heard Mr. Allan say that the Hunnicutt's would make about seven hundred dollars by it.

Question by Mr. Porter.—State whether or not you understood, from the remarks of Mr. Allan, that he expected to assist Mr. Samuel in his official duties, and receive remuneration therefor ; that such compensation was to be paid by Mr. Samuel or otherwise?

Answer.—I mentioned that the compensation he was to receive was to come from Mr. Samuel individually.

Adjourned.

MONDAY, FEBRUARY 17.

Present—Messrs. Bowden, White, French, Nelson and Gibson.

Edgar Allan being duly affirmed, testified as follows :

Question by the Chair.—Can you tell who has been in the habit of auditing the accounts of Mr. Samuel, the Stenographer?

Answer.—Yes, sir. The Committee on Printing have done so, in accordance with a resolution adopted by the Convention. The Committee consisted of Messrs. White, Waddell, Southall and Morrissey, with myself as chairman?

Q.—State the manner of auditing the accounts, and what matter was allowed for?

A.—The accounts are laid before the committee, and, after examination, I invariably put the question, "Those in favor of auditing this account will signify it," never voting upon these accounts myself, except upon one occasion, when I tried to get the committee together on four different days, and had failed—there not being a quorum without my vote. When the last account of \$1,998 and one of \$666 were audited, Mr. White was absent. In auditing these accounts, the committee were guided, in the first place, by the ordinance fixing the pay of the Stenographer. The manner of arriving at a knowledge of what was due him was this: I obtained a copy of the journal of the House of Delegates, and counted the number of words on a page. We then got a number of pages of the manuscript and ascertained how many pages of manuscript it would take to fill a page of the size and kind of the journal of the House of Delegates. We also compared the written manuscript with the pages of short-hand notes so as to find out what proportion the said notes bore to the written manuscript. Everything which appears in his manuscript, whether written or printed, is allowed for, but where matter is referred to, as "see appendix," he is not paid for that matter.

Question by Mr. E. Gibson.—You have seen the proceedings and debates as far as printed; please state whether they contain the matter allowed or not?

Answer.—The proceedings and debates, as printed, correspond with the manuscript paid for as far as that date.

Question by the Chair.—Do you know of any member of this Convention who has been in the employ of Mr. Samuel, in his official capacity.

Answer.—Yes. I have occasionally assisted Mr. Samuel myself, but have never done so when he could get any one else to assist him in writing up his matter—I mean one competent to assist him. Some two weeks ago we obtained a competent assistant, since which time I have had nothing to do with it. Previous to that time he had had some seven or eight, but was compelled to discharge them for incompetency.

Question by Mr. Platt.—Has Mr. Samuel received pay for any work yet in short-hand?

Answer.—I believe he had not, until the last account was audited. Knowing that he intended presenting an account at that meeting of the committee, but not knowing for what amount, I deemed it best that the whole committee should know upon what they were acting. For that purpose, I notified Mr. Samuel to come before the committee, and bring with him evidence of having performed the work for which he intended to claim pay. Mr. Samuel came and on laying his account before the committee, he stated that he had not written up the whole of the notes for which he was charging, but he showed to the committee that he had got some four or five hundred pages, for which he was not charging. He stated, as his reason for not presenting an account for all, that he was drawing for part of his notes which were not written up, and lest anything should happen to him, he wished a sufficient amount to stand to his credit to enable the State to pay for writing up his notes. The estimated value of work for which he did not draw, was from \$1,200 to \$1,500.

Question by Mr. Gibson.—Did Mr. Samuel attend the meetings of the committee?

Answer.—He was at two or three of them, but was never examined in regard to his accounts, except at the last meeting.

Q.—In his absence, who represented him?

A.—Sometimes he gave his account to the committee clerk, and sometimes to myself. On account of Mr. Samuel's duties, he could not always be present. I always, in such cases, saw his notes, and satisfied myself that he was not drawing up to the amount due him, and stated the fact to the committee, leaving it to them to decide. On one occasion, there was about three times the amount due him that he claimed and drew. The amount paid him at that time was for work actually performed. The amount due, but not drawn, was for pages written in short-hand, but not all written up.

Adjourned.

FEBRUARY 18, 1868.

Present—Messrs. Bowden, White, Nelson, Gibson and Platt.

Mr. Brockmeyer being recalled, testified:

Question by Chair.—Did you not tell Mr. Reed that Mr. Samuel would make from seven to ten thousand dollars by reporting, one thousand of which he would spend in canvassing the State?

Answer.—I told him I thought he would make that amount. He (Mr. Samuel) told me that he could afford to spend that amount in canvassing the State.

This was before his appointment. Mr. Samuel said, in this conversation, that he intended to remain in Richmond, and would canvass the State in behalf of the Constitution to be framed.

Question by Mr. White.—Did any one ever have any conversation with you in regard to the testimony to be given by you before this committee?

Answer.—No.

J. H. Painter being duly affirmed, testifies as follows :

Question by the Chairman.—Do you know anything in regard to the contract for reporting the debates of this Convention, outside of that officially before the Convention, and if so, what?

Answer.—I know nothing.

Question.—Do you know of any member of the Convention being concerned with Mr. Samuel in reporting the debates?

Answer.—Only one, who would assist occasionally, and under these circumstances, Mr. Samuel tried at least some eight or ten others to copy for him, and with two or three exceptions, none were competent to do it, and they, from their labor, became so fatigued that they had to give it up. Then there was an arrangement made with Mr. Allan and myself, by which Allan would copy from the adjournment of the Convention until 10 or 11 o'clock P. M., and I from 11 to 4 A. M. It was understood that we were to receive the regular compensation for such work.

Q.—Has it been customary to furnish the Stenographer with copies of written and printed matter before the Convention?

A.—He was furnished with the journal, and in copy, when we came to such matter as was on file in the office and not printed. I copied from the original and gave him the copy, for which he gave me a credit.

Mr. W. H. Reed being duly affirmed, testified as follows :

Question by the Chair.—Do you know whether any member of the Convention is employed by Mr. Samuel in his official capacity, and if so, who?

Answer.—I heard Mr. Allan say sometime since that he was so employed.

Q.—Do you know anything of any application to Mr. Samuel, and how Mr. Allan became so employed—if so, what?

A.—Only by hearsay.

Mr. W. D. Seay being duly affirmed, testified as follows :

Question by the Chair.—Do you know of any member of the Convention being employed by Mr. Samuel in his official capacity, and if so, what?

Answer.—I do. Mr. Allan.

Q.—Do you know anything in relation to his employment?

A.—Mr. Allan first mentioned it to me, and said he, I thought I could take the place. I then saw Mr. Samuel, and he told me the duties of the office. I did not think myself properly qualified, and preferred some other clerkship. Mr. Allan was anxious that I should take the place.

The Committee adjourned to 10 o'clock A. M., February 19, 1868.

FEBRUARY 19th, 1868.

The Committee met pursuant to adjournment.

Present—Messrs. Bowden, Platt, Nelson and Gibson.

W. H. Samuel being duly affirmed, testified.

Question by the Chair.—Mr. Samuel, have you heard what was going on in this Committee?

Answer.—I have a general idea of the character of the investigation of the Committee up to this time.

Q.—State whether you have gotten this idea from any member of the Committee or from any witnesses who have been before it; and if so, from whom?

A.—It was not through any member of this committee. I respectfully decline giving the names of the parties through whom I obtained my information, unless compelled to do so by the committee, formally entered on the record.

Q.—State what is the character of the information you have received in regard to the action of this committee?

A.—I have learned that the committee were seeking to discover whether or not I was to receive a large sum for the performance of my duties as Official Reporter, on condition of my “stumping the State,” or giving a portion of the money to the Republican party of Virginia.

Mr. Gibson moved that an order be entered on the records, requiring Mr. Samuel to answer fully the question asked him in regard to who the witness or witnesses were that informed him of what was going on in this committee room.

Upon this motion there was a tie vote; whereupon, it was left open till the next meeting of the committee.

Question by Mr. Platt.—Did you have any communication with any member of the Republican party in Virginia before you came to Richmond?

Answer.—I wrote an application, for the position of Official Reporter, to Mr. Hunnicutt and Judge Underwood.

Q.—Did you receive answers from these gentlemen?

A.—I received no answer from either.

Q.—Did you have any positive knowledge that you would receive the appointment of Stenographer to this Convention?

A.—I did not, but was prepared to go on to Atlanta, if I was not appointed here.

Q.—Who did you first see in relation to the matter, after arriving in Richmond?

A.—Mr. Hunnicutt.

Q.—To whom did he refer you?

A.—I do not recollect that he referred me to any one. He remarked that he was glad to see me, and that I had better remain about there, and he would see me in a short time.

Q.—Was there any understanding between yourself and any other person, either a member or officer of the Convention, by which you were to render any service whatever except as a reporter?

A.—There never was, nor has there been up to this time.

Q.—Are your reports *verbatim*, and printed precisely as they are delivered in the Convention?

This question was left open for answer until the next meeting of the committee.

Adjourned until the 20th instant, at 10 o'clock A. M.

FEBRUARY 20, 1868.

The committee met pursuant to adjournment.

Present—Messrs. Bowden, Nelson, White, Platt and Gibson.

Mr. Samuel appeared and responded to the questions left open at the last meeting of the committee, as follows:

Question.—Are your reports *verbatim*, and printed precisely as they are delivered in the Convention?

Answer.—I am a *verbatim* reporter, of established reputation, and can report with ease the most rapid speakers in the Convention. After a long experience in my profession, and, in this I will be supported by all Phonographic reporters, I affirm that there is not one public speaker in five hundred, who, in an *extempore* public speech, delivers himself with the care and accuracy and grace in the construction of his sentences that he would exhibit, if called upon to write out his speech. I do not think it is possible to find one public speaker who, speaking extemporaneously, if the transcribed report of the speech were given to him, would not deem it due to himself to revise, according to his taste and judgment, the speech that he had made. I say I do not think it is possible to find such accuracy of language, nicety and grace of diction, grammatical correctness and rhetorical beauty in the collocation of words, where the written speech is not before the speaker in any extemporized speech, that all necessity would be done away with for revision. But yet no one would pretend to claim that the speech so revised was not a fair *verbatim* report. When I refer to public speakers, as above, it is to the ablest in the land. I am compelled to remark, in response to the question, and I do it with all respect to the committee, and with full deference to the Convention which it represents, that I believe there is not one gentleman whose extemporaneous utterances in the Convention for ten consecutive minutes, would not require more or less revision. In the larger number of instances, perhaps in all, the alterations are purely verbal, alterations connected with punctuation, with the structure of the sentence, the combination of two or three sentences as uttered into one, or the division of one into two or more technical sentences. Who shall do this? Reporting is a matter of expedition, of celerity, of alertness, of promptness. The lecture or the speech closes at 10 o'clock P. M., and must appear in the morning paper. The speaker cannot do it, even if he had the time; the paper could not wait. These revisions must necessarily be made by the reporter, whose value is not to depend alone upon his skill as a short-hand writer. Were that all he possessed there is no position in the country that he could get, or fill if gotten. The speech appears, and all who heard it recognize it as a fair and just *verbatim* report. The word "*verbatim*" may possibly be made to bear, in the minds of some members of the committee, a stricter interpretation. Let us, then, see how that will operate. "*Verbatim*," means "by word," or "word for word." We have no adverb in the English language responsive to this Latin adverb "*verbatim*." We might manufacture one, which, according to our idiom, would be "wordly." What shall be a "*verbatim*" or a "word-for-word" report? Shall it be the sounds as they proceed from the speaker's mouth? or, shall it be those sounds translated into certain alphabetic or elementary signs and characters which, combined, form not the slightest resemblance to the sounds uttered? Phonography deals exclusively in sound, and the ancient system of stenography did so, to a certain extent. From the speaker we hear the sound "kauf;" shall we write the sound that reaches, or should the reporter know that the word

meant by that sound is not "kauf," but "cough." "Ere the heir went forth in the air," etc. Shall we spell those three words alike, for the sounds are exactly the same, or do you expect that your reporter should have sufficient discretion and education to translate that same sound, thrice repeated, into three distinct combinations of characters, when neither combination represents the sound used? "Heir" is not "aer," nor "ere," nor "air." "Jeems" is a peculiar and awkward pronunciation or sound of a word, somewhat used in Virginia. Is the reporter to be supposed to be possessed of sufficient sense to know what characters the speaker intends shall be written down for such a sound? Shall the reporter exercise his discretion and translate it "James?" When the word "Briarean" is accented on the second syllable by a speaker, shall the reporter italicise the vowel of that syllable to indicate that incorrect pronunciation, or shall he translate as usual, and then add the secondary accent to the first syllable and the primary to the third syllable, as a guide for future readers. What shall be done with punctuation? As "*et literatim*" is not added to "*verbatim*," the reporter certainly must simply put down the words according to their sounds; as "*et punctuatim*" is not added to "*verbatim*," the reporter must certainly omit all marks of punctuation. This is a marvellously fantastic idea, and the work produced would be a magnificent specimen of "Comstock's Phonetics," or "Dr. Rush's Vocal Gymnasium," combined with the "right to left" and "left to right, perpendicular, horizontal, diagonal methods of reading Chinese."

Do not the gentlemen of the Convention find that their remarks are correctly reported? A gentleman, who is a member of this Convention, offered a resolution some time since that the reports should be made "*verbatim*," or to that effect, expressing the idea, at the same time, that he was willing his remarks should go upon the record, however disjointed they were. The Official Reporter was called upon shortly after to give to a certain "investigating committee" a report of remarks made by that gentleman. As the reporter expected to be called upon to make oath to the *verbatim* character of the report, he made no alteration or revision. That gentleman, as I have been informed, said, on reading that report, that "Mr. Samuel was a horrible reporter." I certainly would be "a horrible reporter" if I put forth that report in the official reports; and still that was a *verbatim* report in one sense of the term. In conclusion, I would say, that in the opinion of every public speaker, who is an educated gentleman, and in the opinion of every reporter in the United States of established reputation, the reports furnished by the Official Reporter to this Convention are, in the technical and professional use of the word, *verbatim* reports, although not printed precisely as delivered in the Convention.

Q.—State as to the amount of money you have drawn, and how applied to the performance of your duties?

A.—It is the custom in all such cases to pay the official reporter as he prepares his work, by the manuscript pages he furnishes or exhibits ready for the printer, and not compel him to await the pleasure or the tardiness of the printer. It is very often the case that the reporter insists upon being paid for reporting the work before transcribing. In cases of this kind, the committee, or persons in authority, generally satisfy themselves that the matter will be transcribed. That is specially done where the reporter thinks he will be compelled to wait long, or may not get paid at all, if he transcribes the report. The last draft that your Reporter made covered all the reporting up to the day on which he presented his account—that is, for work actually done,

as the reporting is the principal and far more responsible duty—the transcribing being merely tedious, and an ordinary phonographic amanuensis, who cannot possibly take charge of the reporting, easily performs the duty of transcribing. The Committee on Printing were satisfied at the time that there was a balance due the Official Reporter fully sufficient to pay for the transcribing of the notes, in case of the death or other accident occurring to the Official Reporter. I very frankly state that I would scarcely have been in such haste to make that last draft had I not received a variety of rumors and information to the effect that no more money would be issued after that, and I was impressed with the belief that if I did not then draw I might be compelled to wait a year for any returns for my work. This I was indisposed to do, equally with the members of the Convention, all of whom, I believe, have taken excellent care not to be behind in their *per diem*. I say this with due respect. Further, the committee should consider that I had to pay amanuenses and clerks, and had made arrangements for a short-hand assistant to relieve me, all of whom would have expected their pay at reasonable intervals, and I would have had no money to have done it with, without inconveniencing myself. I have drawn no money except for work actually done.

Question by Mr. Gibson.—Are there not some speeches in which you have been compelled simply to catch at the idea of the speaker, and clothe in your own, and different language from that used?

Answer.—Yes.

Q.—State your understanding of your contract for the reporting of the Debates and Proceedings of the Convention?

A.—Upon going before the Committee on Contingent Expenses, I laid before them all the facts in the case. The ordinance reported upon a consideration of these facts, gave me \$3 33 for the matter reported or furnished equivalent to the size and compactness of type in a page of the Journal of the House of Delegates of 1866-'67. A report of the Proceedings and Debates comprehend all done in the Convention. The expression, "report of the debates" would comprehend resolutions, reports of committees, ordinances, orders, etc., as debates upon such resolutions, reports, etc., would be meaningless, vague and indefinite unless the subject matter of the debate were stated. This is responsive to the question, so far I understand it.

In the matter of the order of the committee that Mr. Samuel should answer a question put to him yesterday, as how he got certain information, the committee decided that he should answer. Whereupon, Mr. Samuel made the following answer:

The information received by me, as I said before, did not come through any member of the committee. Upon full reflection, I feel quite confident that it did not come to me directly from any witness before the committee of whom the question was asked, as to the existence of a certain understanding between the Republican party and the Official Reporter, but that it came through other channels and very indirectly. The asking of the question is very generally known.

Question by the Chair.—Was it because you could not obtain the assistance of any competent clerk that you employed a member of the Convention to assist you in making off your report?

Answer.—Yes. For the two or three weeks after being elected Official Reporter, I found it quite difficult to obtain competent copyists. I employed Mr. Allan because of his ability in that respect, and have in addition employed, and am now employing some three copyists, one during the day, myself on part of the

day, Mr. Allan during the early part of the evening, and Mr. Painter until 3 o'clock A. M. At the time I employed Mr. Allan, I did not know where to seek for a competent copyist, and I found him entirely and thoroughly competent, and have always been glad to have him write for me when his duties from the Convention and committee would allow him.

Question by Mr. Gibson.—Did Mr. Allan suggest to you the employment of himself or not?

Answer.—The action of the Committee on Contingent Expenses, placed that subject entirely within the control of myself, and removed it from all possible inquiry upon the part of the committee appointed by the Convention.

The committee having decided the above not an answer to the question, the witness further responded :

The answer referred to is also designed to apply to the preceding question. To the question last asked, I reply, "yes."

Question by Mr. Platt.—Was there any understanding between you and Mr. Allan that your pay was to be in any way effected by the amount you paid him?

Answer.—None at all.

Q.—Was the fact, that the gentleman in your employ, as clerk, was chairman of the committee which audited your accounts, ever a matter of conversation between you and him?

A.—Never until the matter was brought up as a subject of general remarks.

Q.—Have you acted as Stenographer for other deliberative bodies before, and state what bodies?

A.—I have acted as reporter in almost every professional way, but have never had charge of any body of this kind before, as they occur so seldom—perhaps in ten or twenty years.

The Committee adjourned until the 21st, at ten o'clock A. M.

WEDNESDAY, FEBRUARY 26, 1868.

The Committee met at eleven A. M. Present—Messrs. Bowden, Gibson, Carter and Platt.

Captain R. S. Ayer being summoned and affirmed, testified as follows :

Q.—Do you know or have you heard of any member of this Convention having stated that he was making money out of the printing of this body?

A.—No.

Q.—Have you any knowledge of any member having said that he was so managing the printing as to assist others in making money?

A.—I heard a member state, on Thursday evening, December 19th, that he had so arranged the printing that it would pay the printer some five or six hundred dollars more than it otherwise would have done.

Q.—To whom was the statement made?

A.—To Mr. Massie and myself.

Q.—Who was the member who made the statement?

A.—Mr. Allan, the Chairman of the Committee on Printing.

Question.—Did he state in what manner he had made this arrangement?

Answer.—He did, but not being acquainted with printing, I do not recollect the exact terms used. He further stated that he fooled the other side of the House, and if they had been sharp they would have discovered it.

Q.—Did you, from this conversation, get an impression that there was any improper or fraudulent intent on the part of Mr. Allan?

A.—I did.

On motion the Convention adjourned to February 27, at ten A. M.

THURSDAY, FEBRUARY 27, 1868.

The Committee met at eleven A. M. Present—Messrs. Bowden, Gibson, Carter and Platt.

Mr. E. W. Massie was affirmed, and testified :

Question.—Have you any knowledge of any member having said that he was so managing the printing as to assist others in making money out of it?

Answer.—In a conversation with a member of the Convention, held about the middle of December, I heard Mr. Allan, chairman of the Committee on Printing, say that the present arrangement, in regard to printing, would make it worth five or six hundred dollars more than it had been supposed it would be worth.

Q.—Did he say anybody had been fooled in the matter?

A.—He said that if the opposition had been as smart as he thought they were, they would have detected it.

Q.—Did you understand by the conversation referred to, that any improper or fraudulent practice was involved in this arrangement?

A.—I understood that by the plan adopted by Mr. Allan, five or six hundred dollars more than was intended by the Convention, would be realized.

Mr. C. Y. Thomas being duly affirmed, testified :

Question.—Are you chairman of the Committee on Finance and Contingent Expenses?

Answer.—I am.

Q.—Will you state the nature of the contract made by your Committee with Mr. Samuel, and your understanding of the same?

A.—The Committee being instructed to report an ordinance fixing the compensation for reporting the debates and proceedings of the Convention, summoned Mr. Samuel before them to ascertain upon what terms he would do so. The Committee had frequent conversations with Mr. Samuel upon the subject, in which he exhibited an octavo volume of the reports of the Maryland Convention with two columns to the page, and proposed to report the debates and proceedings for \$5 per page, containing an equal amount of printed matter with the volume exhibited. The Committee believing that the type of the said volume was too small and compact, proceeded and exhibited a volume of the journal of the Legislature, containing large type. Upon an examination of this volume, Mr. Samuel proposed to report the debates and proceedings of the Convention for \$3.33 per page, of the size and form. This proposition the Committee accepted, and reported the ordinance in accordance therewith. The contract included the writing out the debates upon foolscap paper ready for the printer. In the interview, Mr. Samuel was frank and candid in his answers, and was disposed to furnish the Committee with such information as he possessed upon such subjects. In making the contract, I did not understand that it included any matter, such as reports of Committees, but only the debates and such facts in connection therewith as would present an intelligible account of the proceedings.

The committee then adjourned until February 29th.

FEBRUARY 29.

Present—Messrs. Bowden, Platt, Gibson and Nelson.

Mr. Waddell being duly affirmed, testified.

Question by the Chair.—Are you a member of the Standing Committee on Printing?

Answer.—I am.

Q.—State all you know about the manner of examining and auditing the accounts of the Printer and of the Stenographer, so far as they are connected with the reporting of the proceedings of the Convention?

A.—On three occasions, when I have been present at meetings of the Committee on Printing, the chairman, Mr. Allan, laid before us accounts for money due the Stenographer. He (Mr. Allan) stated that he had examined into the matter and found the accounts correct. Knowing nothing to the contrary, and believing that if the Stenographer had done his work as the chairman of the committee testified he had, he was entitled to his pay, I voted on each occasion to pass the account. When the last account was presented, I was somewhat startled at the amount, but having known all the time that the work would be very expensive, and Messrs. Allan and Samuel both stating that the work had been done according to contract, I did not feel at liberty to reject the account. The accounts on printing were laid before us in like manner. After several accounts had been audited by us at different times, I suggested to Mr. Allan that he should have a copy of each document printed and filed with the account. He agreed to do so, and accordingly, at the next meeting, had a large number of documents present. I made an extract from the account, and selecting a half dozen of the documents at random, took them to the Richmond Dispatch job office, and asked the foreman to measure the work and make an estimate of the cost. I did this twice, and on both occasions the foreman told me the accounts were correct, and that he believed any printer in the city would make them out in like manner.

MARCH 2, 1868.

The committee met, pursuant to the further order of the Convention, to take such testimony as might be brought before it.

Present—Messrs. White, Nelson, Gibson, and Mr. Edgar Allan, who agreed that these members might go on with the evidence, when, on his motion, R. S. Ayer was recalled.

Question by Mr. Allan.—You have stated in your direct examination that from a conversation had with myself, you were led to infer that I was defrauding the State in my management of the printing. Now state in what manner you believe such fraud was being committed?

Answer.—I believe it was being committed in certain articles in the way of printing. I do not know the technical names he called.

Q.—Did I or did I not refer to composition, and say Messrs. Hunnicutt & Bro. were getting 70 cents per thousand ems, while by my arrangement it would only cost them 50 cents?

A.—I do not recollect anything of the kind. I do not recollect that he mentioned the Messrs. Hunnicutt at all.

Q.—Could you not remember the way in which I stated that sum was being made; did I refer to “composition” or press-work?

A.—I do not recollect.

Q.—Did I or did I not tell you that, being a practical printer myself, while Mr. Hunnicutt was not, I had been able to fix the printing matter so that the Messrs. Hunnicutt & Bro. would make \$600 or \$700 more than they otherwise would do?

A.—I do not recollect that he said anything of the kind.

Q.—Well, then, state what I did say?

A.—You said that you had so arranged the matter of printing, or a part of it, that it would make some \$400 or \$500 difference to the printer in his favor.

Q.—What lead you to think there was anything criminal in my action?

A.—From the remarks that followed, when you said that they were not as smart on the other side of the House as they thought they were, else they would have detected it.

Q.—Did you volunteer to come before this committee, or were you first approached on that subject? If the latter, state by whom?

A.—I did not. I was asked to come before the committee. I refused several times. The chairman of the committee, Mr. Bowden, summoned me through the Sergeant-at-Arms.

Q.—Did Mr. Bowden know that you would testify in this matter? If so, how did he obtain such knowledge, and what did he say to you on the subject when he approached you?

A.—I do not know what he knew. I presume he did, or he would not have summoned me. I do not know how he obtained his knowledge. I do not recollect that he said anything to me, only that he wanted me to come before the committee and testify.

Mr. Painter recalled.

Question by Mr. Allan.—Did I ever tell you that I had fixed the printing matters so that Messrs. Hunnicutt & Brother would be able to make \$600 or \$700 more than they otherwise would have done? If so, state how I said it was done.

A.—I do not remember any amount being named, but I heard him say, and made the remark to him myself on one occasion or more, that he (Mr. Hunnicutt) was losing money by the way in which he (Mr. Hunnicutt) did his business. I think I asked Mr. Allan why he did not give Mr. Hunnicutt some advice in the matter. I had spoken to George, and he depended entirely on Mr. Henry. I think there was a rough estimate made by Mr. Allan, or between us, by which we concluded that Mr. Hunnicutt was losing money on the contract. Mr. Allan afterwards told me that they had changed their system, both in composition and press-work. This change consisted in paying by the piece instead of by time, and the manner in which the press-work was done—it was working sixteen pages at a time instead of eight.

Q.—Did I not tell you that the men were fooling the Messrs. Hunnicutt, and that if the Messrs. Hunnicutt were smart, they would have found it out?

A.—Yes, we both concluded that the Messrs. Hunnicutt were not practical printers.

Mr. White moved that the committee adjourn, subject to the call of the Acting Chairman, Mr. E. Gibson.

It was agreed to.

MARCH 5, 1868.

The committee met pursuant to call.

Present—Messrs. Bowden, White, French and Gibson.

A. K. Henry being duly affirmed, testified as follows:

Question by the Chair.—State your occupation, and where employed.

Answer.—I am a printer by trade, and employed at Mr. Hunnicutt's office on Convention printing.

Q.—State whether you know of Mr. Allan's having anything to do with the management of that office, and if so, in what that management consists?

A.—I do not know.

Q.—It has been stated here that the men in Mr. Hunnicutt's employ were working in such a manner as to fool him, and that Mr. Allan detected this, and had a change made in the working of that office. Will you state what that change was?

A.—A change was made in the manner of employing the compositors (as near as I can recollect) within two or three weeks after the commencement of the work. The change was from working by the week, at \$20 per week, to employment by the piece, at 50 cents per 1,000 ems. The change was made at the suggestion of Mr. Allan. Since the change the average has been about \$15 per week. The change was made with about five men.

Question by Mr. White.—As foreman, have you had charge of the press-work?

Answer.—I have had entire control.

Q.—What changes have been made in it, and by whom suggested?

A.—I have made several changes of pressmen on account of incompetency and neglect of duty. There was no other change. No one made any suggestion to me in this matter, nor have I any inkling even of a suggestion having been made.

Q.—Did you not make a change in reference to the number of forms you put upon the press at a time within a few weeks after you commenced doing the printing of the Convention?

A.—Not in regard to the number of forms, but with regard to the number of pages in a form. A change was made from eight to sixteen pages in a form, after we commenced working the large press. My work is imposed in eight page forms, and this is double forms. This was done at my own suggestion, so as to keep my men in work—that is, give them type and save press-work. This makes no difference in the expense of the work, as I pay my pressman.

Cross-examined by Mr. Allan.—You have said that you have commenced "making up" your matter in sixteen page forms. Does not the office make more money than if your pressman only worked eight pages at a time?

A.—No, sir. That is, working by the week. If I had press-work enough to keep my press going all the time, there would be a saving.

Q.—How was it in regard to the press-work of Dr. Sears' speech?

A.—Money was made at that, because of the large number of tokens and a change in the system of employing the pressman. I made just double by working this speech in sixteen page forms to what I would have done in eight page forms.

Q.—Do you know of any money being made by the Convention Printers more than was allowed by the Convention in their report fixing the prices?

A.—No, sir.

Question by Mr. Platt.—Has the contract for printing been a profitable one?

Answer.—Taking all the circumstances into consideration, I think it has been an unprofitable one.

David B. White being duly affirmed, testified as follows :

Question by the Chair.—State what you know in regard to this subject?

Answer.—Mr. Hunnicutt and son George, Mr. Allan and myself boarded together at Mr. Parsons'. Frequently, at the table, the conversation turned upon the Convention printing. I frequently heard Mr. Allan say to Mr. Hunnicutt that his office could be managed so as to save more to himself. In this connection he mentioned the manner of employing compositors, and also the manner of doing the press-work, and told Mr. Hunnicutt that it would be a saving to put two forms upon the press instead of one, and that the work could be done so.

REPORT OF COMMITTEE

ON THE

LEGISLATIVE DEPARTMENT.

ARTICLE —.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and House of Delegates.

SEC. 2. The House of Delegates shall be elected biennially by the voters of the cities of —, and the several counties, on the —.

SEC. 3. The Senators shall be elected for the term of four years, for the election of whom the counties, cities and towns shall be divided into — districts. Each county, city and town of the respective districts, at the time of the first election of its delegate or delegates under this Constitution, shall vote for one Senator; and the Sheriffs or other officers holding the election for each county, city and town, within ten days at the furthest after the last election in the district, and from the polls so taken in their respective counties, cities and towns, return as Senator the person who has received the greatest number of votes in the whole district.

SEC. 4. It shall be the duty of the General Assembly, in the year one thousand eight hundred and seventy-five, and in every tenth year thereafter, to reapportion representation in the Senate and House of Delegates among the cities of —, and the several counties, from an enumeration of the inhabitants of the State.

Qualification of Senators and Delegates.

SEC. 5. Any person may be elected Senator who, at the time of election, has attained the age of twenty-five years, is actually a resident within the district, and qualified to vote for members of the General Assembly according to this Constitution. And any person may be elected a member of the House of Delegates who, at the time of election, has attained the age of twenty-one years, and is actually a resident within the county, city, town or election district, qualified to vote for members of the General Assembly according to this Constitution. The removal of any person elected to either branch of the General Assembly from the city, county, town or district for which he was elected, shall vacate his office.

Powers and Duties of the General Assembly.

SEC. 6. The General Assembly shall meet annually, and not oftener, unless convened by the Governor in the manner prescribed in this Constitution. No session of the General Assembly, after the first under this Constitution, shall

continue longer than sixty days, without the concurrence of three-fifths of the members elected to each House, in which case the session may be extended for a further period, not exceeding thirty days. Neither House, during the session of the General Assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting. A majority of the members elected to each House shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and shall be authorized to compel the attendance of absent members, in such manner and under such penalty as each House may provide.

SEC. 7. The House of Delegates shall choose its own Speaker, and in the absence of the Lieutenant-Governor, or when he shall exercise the office of Governor, the Senate shall choose from their own body a President *pro tempore*, and each House shall appoint its own officers, settle its own rules of proceeding, and direct writs of election for supplying intermediate vacancies; but if vacancies shall occur during the recess of the General Assembly, such writs may be issued by the Governor, under such regulations as may be prescribed by law. Each House shall judge of the election, qualification and returns of its members, may punish them for disorderly behaviour, and, with the concurrence of two-thirds, expel a member, but not a second time for the same offence.

SEC. 8. The members of the General Assembly shall receive for their services a compensation to be ascertained by law, and paid out of the public treasury; but no act increasing such compensation shall take effect until after the end of the term for which the members of the House of Delegates voting thereon were elected. And no Senator or Delegate, during the term for which he shall have been elected, shall be appointed to any civil office of profit under the Commonwealth, which has been created, or the emoluments of which have been increased during such term, except offices filled by election by the people.

SEC. 9. Bills and resolutions may originate in either of the two Houses of the General Assembly, to be approved or rejected by either, and may be amended by either House with the consent of the other.

SEC. 10. Each House of the General Assembly shall keep a journal of its proceedings, which shall be published from time to time, and the yeas and nays of the members of either House, on any question, shall, at the desire of one-fifth of those present, be entered on the journal. No bill shall become a law until it has been read on three different days of the session in the House in which it originated, unless two-thirds of the members elected in that House shall otherwise determine.

SEC. 11. The whole number of members to which the State may at any time be entitled in the House of Representatives of the United States, shall be apportioned, as nearly as may be, amongst the several counties, cities and towns of the State, according to their population.

SEC. 12. In the apportionment, the State shall be divided into districts, corresponding in number with the representatives to which it may be entitled in the House of Representatives of the Congress of the United States, which shall be formed, respectively, of contiguous counties, cities and towns, be compact, and include, as nearly as may be, an equal number of population.

SEC. 13. The privilege of the writ of *habeas corpus* shall not in any case be suspended. The General Assembly shall not pass any bill of attainder; or any *ex post facto* law; or any law impairing the obligation of contracts; or any law

whereby private property shall be taken for public uses without just compensation; or any law abridging the freedom of speech or of the press. No man shall be compelled to frequent or support any religious worship, place or ministry whatsoever; nor shall any man be enforced, restrained, molested or burthened in his body or goods, or otherwise suffer, on account of his religious opinions or belief; but all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and the same shall in nowise affect, diminish, or enlarge their civil capacities. And the General Assembly shall not prescribe any religious test whatever; or confer any peculiar privileges or advantages on any sect or denomination; or pass any law requiring or authorizing any religious society, or the people of any district within this Commonwealth, to levy on themselves or others any tax for the erection or repair of any house of public worship, or for the support of any church or ministry; but it shall be left free to every person to select his religious instructor, and to make for his support such private contract as he shall please.

SEC. 14. No law shall embrace more than one object, which shall be expressed in its title; nor shall any law be revived or amended by reference to its title, but the act revived or the section amended shall be re-enacted and published at length.

SEC. 15. The Governor, Lieutenant-Governor, Judges, and all others offending against the State, by maladministration, corruption, neglect of duty, or other high crime or misdemeanor, shall be impeachable by the House of Delegates, and be prosecuted before the Senate, which shall have the sole power to try impeachment. When sitting for that purpose, they shall be on oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment, in case of impeachment, shall not extend further than to removal from office, and disqualification to hold or enjoy any office of honor, trust or profit under the Commonwealth; but the party convicted shall, nevertheless, be subject to indictment, trial, judgment and punishment, according to law. The Senate may sit during the recess of the General Assembly for the trial of impeachment.

SEC. 16. Slavery or involuntary servitude, except for crime, are hereby abolished and prohibited in the State forever.

SEC. 17. The General Assembly shall not grant a charter of incorporation to any church or religious denomination, but may secure the title to church property to an extent to be limited by law.

SEC. 18. No lottery shall hereafter be authorized by law; and the buying, selling or transferring of tickets or chances in any lottery shall be prohibited.

SEC. 19. No new county shall be formed with an area of less than six hundred square miles; nor shall the county or counties from which it is formed be reduced below that area; nor shall any county, having a population less than ten thousand, be deprived of more than one-fifth of such population; nor shall a county, having a larger population, be reduced below eight thousand. But any county, the length of which is three times its mean breadth, or which exceeds fifty miles in length, may be divided at the discretion of the General Assembly. In all general elections the voters in any county, not entitled to separate representation, shall vote in the same election district.

SEC. 20. The General Assembly shall confer on the courts the power to grant divorces, change the names of persons, and direct the sale of estates belonging

to infants and other persons under legal disabilities, but shall not, by special legislation, grant relief in such cases, or in any other case of which the courts or other tribunals may have jurisdiction.

SEC. 21. The General Assembly shall provide for the periodical registration in the several counties, cities and towns of the voters therein, and for the annual registration of births, marriages and deaths.

SEC. 22. The manner of conducting and making returns of elections, of determining contested elections, and of filling vacancies in office, in cases not specially provided for by this Constitution, shall be prescribed by law; but special elections to fill vacancies in the office of judge of any court, shall be for a full term. And the General Assembly may declare the cases in which any office shall be deemed vacant, where no provision is made for that purpose in this Constitution.

Respectfully submitted,

W. F. B. TAYLOR, *Chairman.*

MAJORITY AND MINORITY REPORTS
OF
COMMITTEE ON BASIS OF REPRESENTATION
AND
APPORTIONMENT.

MAJORITY REPORT.

All who have given the subject of apportionment any attention, are aware that it is one of great difficulty; and in a State comprising counties varying so much in extent and population as Virginia, it becomes impossible to make an adjustment that will give exact equality of political power to all portions of the State, if any regard is paid to county lines. Hence, there can be no plan adopted that will not be subject to objections; but it has been the endeavor of your committee to present one with as few objections as possible.

It will be apparent that the census of 1860 gives no definite idea of the present location of the population. Two causes have operated to unsettle and change the state of things as reported at that time—war and the abolition of slavery; and such has been the effect of these causes, that it appears that the population of some counties has doubled since that census was taken. The last and most reliable information within the reach of the committee, was the registry made under the authority of the acts of Congress, commonly known as the Reconstruction Acts, and the committee has taken it as a basis, aware that it is not a perfect showing of the location of the State, but the best obtainable. If an apportionment made on this basis is not perfect or nearly so, your committee presume that the State will not long labor under any defects that may exist, but that the Legislature will be authorized by this Constitution to revise the matter when they obtain an authentic return of the census of 1870.

Early in our deliberations, the question was presented as to how far it would be proper to depart from the ratio of numbers in favor of county organization. The same question presented itself to the framers of our Federal Constitution, and it was settled by giving all the States an equal representation in the Senate, and basing the House of Representatives on numbers. The wisdom of this arrangement has hardly been questioned, and your committee were of the opinion that some approach to this system would be desirable and beneficial in the formation of the legislative bodies of a State.

It is true that counties have not that diversity of interest that are thought to obtain between States; yet the people of one county may, and do, have many

questions arising, of especial interest to them, in which the people of other counties have no interest whatever. Each has, to some extent, its own judiciary; takes care of its own poor; has charge of its roads, and it has been usual to leave them some legislative and taxing power. In a community like this, it is natural and laudable for them to desire a representative in the law-making body of the State, chosen by themselves without the interference of others, representing their views and giving that protection to their interest as only interested men will. The number of counties in this State is such as to prevent them from having a Senator each; and your committee, not deeming it material in which body of the General Assembly the county organizations were represented, have based the Senate entirely on numbers and the House of Delegates on a compromise between population and counties.

The method adopted in allotting the members of the House of Delegates, was to give one delegate to every eighteen hundred voters; and where the fraction over in a county exceeded nine hundred voters, give another delegate; and to every county in which the number of voters was between nine and eighteen hundred, a delegate each.

After making this allotment, it was found that nine counties, having less than nine hundred, were so situated that they could not be formed into suitable districts, and it was thought best to give each a delegate. By doing this all the counties except four will elect a delegate without connection with the citizens of any other counties—an arrangement your committee deem of very great importance.

By adopting this system, the subject is taken out of the list of partisan questions, (the result being made to depend on population and county lines)—a result that we hope will be mutually satisfactory to all.

The senatorial districts are so formed as to contain, as near as may be, fifty-four hundred voters.

This apportionment makes the House of Delegates consist of one hundred and thirty-eight members, and the Senate of forty-two.

It will be seen that the House of Delegates is less by twenty-four and the Senate by ten than under the Constitution of 1852. While the State has lost in extent of territory since that time, the number of voters has been increased; besides, the plan of giving all the counties a delegate cannot be maintained, if the number is decreased, without depriving the larger counties of their proper weight and influence, and the size becomes almost a necessity in a State composed of so large a number of counties as this.

To the objection that these bodies are so large that they will be unwieldy and expensive, we would say that the experience in this country does not sustain it.

The House of Delegates will be less than half the number of the United States House of Representatives and less than the average of such bodies, taking all the States together.

To those who dislike popular government and want the celerity and dispatch obtainable through a government lodged in the hands of a few, a smaller Legislature may be desirable; but old-fashioned republicans will be slow to depart from the practice of the fathers of republican institutions, who thought it necessary, to the safety of their freedom and protection to rights, to keep their legislative bodies sufficiently large to hold in check ambitious and designing

spirits, while the expense is but a trifling item, not worthy of consideration in matters like this, as we all know it would be cheaper to pay a few law-makers than many, yet that plan has never been acceptable in this country, and we hope it never will.

District No.	1—Accomac shall have two delegates.
" "	2—Albemarle shall have three delegates.
" "	3—Amelia shall have one delegate.
" "	4—Alexandria shall have two delegates.
" "	5—Amherst shall have two delegates.
" "	6—Appomattox shall have one delegate.
" "	7—Alleghany and Craig shall have one delegate.
" "	8—Augusta shall have three delegates.
" "	9—Bath and Highland shall have one delegate.
" "	10—Bedford shall have three delegates.
" "	11—Bland shall have one delegate.
" "	12—Botetourt shall have one delegate.
" "	13—Brunswick shall have one delegate.
" "	14—Buckingham shall have two delegates.
" "	15—Buchanan and Wise shall have one delegate.
" "	16—Campbell shall have three delegates.
" "	17—Caroline shall have two delegates.
" "	18—Carroll shall have one delegate.
" "	19—Charles City shall have one delegate.
" "	20—Charlotte shall have two delegates.
" "	21—Chesterfield shall have two delegates.
" "	22—Cumberland shall have one delegate.
" "	23—Culpeper shall have one delegate.
" "	24—Clarke shall have one delegate.
" "	25—Dinwiddie shall have one delegate.
" "	26—Elizabeth City shall have one delegate.
" "	27—Essex shall have one delegate.
" "	28—Fauquier shall have two delegates.
" "	29—Fairfax shall have one delegate.
" "	30—Floyd shall have one delegate.
" "	31—Franklin shall have two delegates.
" "	32—Fluvanna shall have one delegate.
" "	33—Frederick shall have one delegate.
" "	34—Giles shall have one delegate.
" "	35—Goochland shall have one delegate.
" "	36—Greensville shall have one delegate.
" "	37—Greene shall have one delegate.
" "	38—Gloucester shall have one delegate.
" "	39—Grayson shall have one delegate.
" "	40—Halifax shall have three delegates.
" "	41—Hanover shall have two delegates.
" "	42—Henrico shall have two delegates.
" "	43—Henry shall have one delegate.
" "	44—Isle of Wight shall have one delegate.
" "	45—James City shall have one delegate.
" "	46—King and Queen shall have one delegate.
" "	47—King William shall have one delegate.

District No. 48—King George shall have one delegate.

- “ “ 49—Lancaster shall have one delegate.
- “ “ 50—Lee shall have one delegate.
- “ “ 51—Louisa shall have two delegates.
- “ “ 52—Lunenburg shall have one delegate.
- “ “ 53—Loudoun shall have two delegates.
- “ “ 54—Mathews shall have one delegate.
- “ “ 55—Madison shall have one delegate.
- “ “ 56—Mecklenburg shall have two delegates.
- “ “ 57—Middlesex shall have one delegate.
- “ “ 58—Montgomery shall have one delegate.
- “ “ 59—Nansemond shall have one delegate.
- “ “ 60—New Kent shall have one delegate.
- “ “ 61—Norfolk county and the city of Portsmouth shall have three delegates.
- “ “ 62—Norfolk city shall have two delegates.
- “ “ 63—Nelson shall have one delegate.
- “ “ 64—Nottoway shall have one delegate.
- “ “ 65—Northampton shall have one delegate.
- “ “ 66—Northumberland shall have one delegate.
- “ “ 67—Orange shall have one delegate.
- “ “ 68—Patrick shall have one delegate.
- “ “ 69—Page shall have one delegate.
- “ “ 70—Pittsylvania shall have four delegates.
- “ “ 71—Petersburg city shall have two delegates.
- “ “ 72—Powhatan shall have one delegate.
- “ “ 73—Prince Edward shall have one delegate.
- “ “ 74—Prince George shall have one delegate.
- “ “ 75—Prince William shall have one delegate.
- “ “ 76—Pulaski shall have one delegate.
- “ “ 77—Princess Anne shall have one delegate.
- “ “ 78—Rappahannock shall have one delegate.
- “ “ 79—Richmond city shall have six delegates.
- “ “ 80—Richmond county shall have one delegate.
- “ “ 81—Rockingham shall have two delegates.
- “ “ 82—Rockbridge shall have two delegates.
- “ “ 83—Roanoke shall have one delegate.
- “ “ 84—Russell shall have one delegate.
- “ “ 85—Shenandoah shall have one delegate.
- “ “ 86—Smythe shall have one delegate.
- “ “ 87—Southampton shall have one delegate.
- “ “ 88—Scott shall have one delegate.
- “ “ 89—Surry shall have one delegate.
- “ “ 90—Stafford shall have one delegate.
- “ “ 91—Sussex shall have one delegate.
- “ “ 92—Spotsylvania shall have one delegate.
- “ “ 93—Tazewell shall have one delegate.
- “ “ 94—Warwick shall have one delegate.
- “ “ 95—Washington shall have two delegates.
- “ “ 96—Warren shall have one delegate.
- “ “ 97—Westmoreland shall have one delegate.
- “ “ 98—Wythe shall have one delegate.
- “ “ 99—York shall have one delegate.

The following shall constitute the senatorial districts:

Alexandria, Fairfax and Loudoun shall form the first district, and be entitled to two senators.

Fauquier, Rappahannock and Prince William shall form the second district, and be entitled to one senator.

Culpeper, Orange and Madison shall form the third district, and be entitled to one senator.

Stafford, Spotsylvania and Louisa shall form the fourth district, and be entitled to one senator.

Fluvanna, Goochland and Powhatan shall form the fifth district, and be entitled to one senator.

Albemarle and Greene shall form the sixth district, and be entitled to one senator.

Buckingham and Appomattox shall form the seventh district, and be entitled to one senator.

Nelson and Amherst shall form the eighth district, and be entitled to one senator.

Franklin and Henry shall form the ninth district, and be entitled to one senator.

Pittsylvania shall form the tenth district, and be entitled to one senator.

Campbell shall form the eleventh district, and be entitled to one senator.

Bedford shall form the twelfth district, and be entitled to one senator.

Halifax shall form the thirteenth district, and be entitled to one senator.

Charlotte and Prince Edward shall form the fourteenth district, and be entitled to one senator.

Mecklenburg shall form the fifteenth district, and be entitled to one senator.

King George, Westmoreland, Richmond, Northumberland and Lancaster shall form the sixteenth district, and be entitled to one senator.

Caroline, Essex and King William shall form the seventeenth district, and be entitled to one senator.

Gloucester, Middlesex, Mathews and King and Queen shall form the eighteenth district, and be entitled to one senator.

Richmond city and Henrico county shall form the nineteenth district, and be entitled to three senators.

Norfolk city and Princess Anne county shall form the twentieth district, and be entitled to one senator.

Norfolk county and the city of Portsmouth shall form the twenty-first district, and be entitled to one senator.

Nansemond, Southampton and Isle of Wight shall form the twenty-second district, and be entitled to one senator.

Greensville, Dinwiddie and Sussex shall form the twenty-third district, and be entitled to one senator.

Surry, York, Warwick and Elizabeth City shall form the twenty-fourth district, and be entitled to one senator.

Brunswick and Lunenburg shall form the twenty-fifth district, and be entitled to one senator.

Chesterfield and Prince George shall form the twenty-sixth district, and be entitled to one senator.

Accomac and Northampton shall form the twenty-seventh district, and be entitled to one senator.

Hanover, New Kent, Charles City and James City shall form the twenty-eighth district, and be entitled to one senator.

Cumberland, Amelia and Nottoway shall form the twenty-ninth district, and be entitled to one senator.

Frederick, Clarke and Shenandoah shall form the thirtieth district, and be entitled to one senator.

Page, Warren and Rockingham shall form the thirty-first district, and be entitled to one senator.

Highland and Augusta shall form the thirty-second district, and be entitled to one senator.

Rockbridge, Bath and Alleghany shall form the thirty-third district, and be entitled to one senator.

Botetourt, Roanoke, Craig and Giles shall form the thirty-fourth district, and be entitled to one senator.

Montgomery, Floyd and Patrick shall form the thirty-fifth district, and be entitled to one senator.

Grayson, Carroll and Wythe shall form the thirty-sixth district, and be entitled to one senator.

Pulaski, Bland, Tazewell and Russell shall form the thirty-seventh district, and be entitled to one senator.

Lee, Scott, Wise and Buchanan shall form the thirty-eighth district, and be entitled to one senator.

Washington and Smythe shall form the thirty-ninth district, and be entitled to one senator.

All of which is respectfully submitted.

JNO. HAWXHURST,
J. HENRY WILLIAMS,
JAMES T. S. TAYLOR,
B. F. LEWIS,
SAM'L F. KELSO,
DAVID CANADA,
J. McK. KENNERLY.

MINORITY REPORT.

The undersigned, dissenting from the report of the majority of the Committee on the Basis of Representation and Apportionment, in regard to the size of the two houses of the Legislature, beg leave to submit the following reasons for the same :

The majority recommend that the House of Delegates be composed of one hundred and thirty-eight and the Senate of forty-two members, besides the Speaker. Large legislative bodies are cumbersome and unwieldy, not as efficient, as a general rule, nor as productive of as good legislation as bodies of a reasonable size—protracting their sessions at great expense to the Commonwealth, with less benefit to the people.

Should the House of Delegates consist of about eighty-four members, as now prescribed by law, and the Senate of twenty-five, we shall secure a higher order of talent, more efficient legislation, and save the tax-payers of this Commonwealth upwards of one hundred thousand dollars a year—an item the Convention should well consider in the present condition of the finances of the State and the distracted and impoverished condition of the people. When members are elected in small districts, unprincipled and incompetent men can and do frequently manage the nominating conventions and get into office, whereas, in larger districts, it is not so easily controlled. Men of ability, and possessing the necessary qualifications, will be sought to fill the position.

We feel confident that one hundred and nine members, apportioned between the two houses, as hereinbefore mentioned, will be sufficiently large to represent all the diversified interests and wants of the Commonwealth.

The argument urged in favor of large bodies, that they are not so easily controlled by corporate bodies—a provision in the finance report, adopted by this Convention, provides that the Commonwealth shall not become interested in any corporation or company—is, we think, insufficient, and cannot be sustained against the size we recommend. The experience of public men sustains the fact that the Senate legislative body—the smaller of the two houses—is not so subject to outside influence as the lower house and more numerous body.

We have been frequently referred, in this Convention, to the State of New York and other prosperous States as examples worthy of imitation. We find that the State of New York has more than ten times the inhabitants and wealth of this State, yet her Senate consists of only thirty-two members, and the comparison is true of nearly all the Northern and Eastern States of this Union.

By adopting the report of the committee, the tax-payer of this State will have to pay \$10—to the New York tax-payer's \$1—for the expenses of the State Legislature.

In conclusion, I would recommend the adoption of the following resolution :

Resolved, That the report of the committee be recommitted, with instructions to apportion to the House of Delegates eighty-four and to the Senate twenty-five members.

All of which is respectfully submitted,

E. NASH.

REPORT
OF THE
COMMITTEE OF REVISION
ON THE
REPORTS OF STANDING COMMITTEES.

NO. 1.—REPORT OF COMMITTEE ON THE PREAM-
BLE, BILL OF RIGHTS AND DIVISION OF THE
POWERS OF GOVERNMENT.

A DECLARATION OF RIGHTS, *made by the Representatives of the good people of Virginia, assembled in full and free Convention, which rights do pertain to them and their posterity as the basis and foundation of Government.*

I. That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

II. That this State shall ever remain a member of the United States of America, and that the people thereof are part of the American nation, and that all attempts, from whatever source or upon whatever pretext, to dissolve said Union or to sever said nation, are unauthorized, and ought to be resisted with the whole power of the State.

III. That the Constitution of the United States, and the laws of Congress passed in pursuance thereof, constitute the supreme law of the land, to which paramount allegiance and obedience are due from every citizen, anything in the constitution, ordinances or laws of any State to the contrary notwithstanding.

IV. That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

V. That government is, or ought to be, instituted for the common benefit, protection and security of the people, nation or community; of all the various modes and forms of government, that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually

secured against the danger of maladministration; and that, when any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, inalienable and indefeasible right to reform, alter or abolish it, in such manner as shall be judged most conducive to the public weal.

VI. That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services; which, not being descendible, neither ought the offices of magistrate, legislator or judge to be hereditary.

VII. That the legislative, executive and judicial powers should be separate and distinct; and that the members thereof may be restrained from oppression, by feeling and participating the burthens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain and regular elections, in which all, or any part of the former members to be again eligible or ineligible, as the laws shall direct.

VIII. That all elections ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property for public uses, without their own consent, or that of their representatives so elected, nor bound by any law to which they have not in like manner assented, for the public good.

IX. That all power of suspending laws, or the execution of laws, by any authority, without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

X. That, in all capital or criminal prosecutions, a man hath a right to demand the cause and nature of his accusations, to be confronted with the accusers and witnesses, to call for evidence in his favor, and to a speedy trial by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty; nor can he be compelled to give evidence against himself; that no man be deprived of his liberty, except by the law of the land or the judgment of his peers.

XI. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

XII. That general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

XIII. That in controversies respecting property, and in suits between man and man, the trial by jury is preferable to any other, and ought to be held sacred.

XIV. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments, and any citizen may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

XV. That a well-regulated militia, composed of the body of the people,

trained to arms, is the proper, natural and safe defence of a free State ; that standing armies, in time of peace, should be avoided as dangerous to liberty, and that in all cases the military should be under strict subordination to, and governed by, the civil power.

XVI. That the people have a right to uniform government ; and, therefore, that no government separate from, or independent of, the government of Virginia ought to be erected or established within the limits thereof.

XVII. That no free government, or the blessings of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance and virtue, and by a frequent recurrence to fundamental principles.

XVIII. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence ; and, therefore, all men are equally entitled to the free exercise of religion according to the dictates of conscience ; and that it is the mutual duty of all to practice Christian forbearance, love and charity towards each other.

XIX. That neither slavery nor involuntary servitude, except as lawful imprisonment may constitute such, shall exist within this State.

XX. The rights enumerated in this Bill of Rights shall not be construed to limit other rights of the people not therein expressed.

CONSTITUTION OF VIRGINIA.

Whereas, the delegates and representatives of the good people of Virginia, in Convention assembled, on the 29th day of June, in the year of our Lord one thousand seven hundred and seventy-six, reciting and declaring, that whereas George the Third, King of Great Britain and Ireland and Elector of Hanover, before that time entrusted with the exercise of the kingly office in the government of Virginia, had endeavored to pervert the same into a detestable and insupportable tyranny, by putting his negative on laws the most wholesome and necessary for the public good ; by denying his governors permission to pass laws of immediate and pressing importance, unless suspended in their operation for his assent, and when so suspended, neglecting to attend to them for many years ; by refusing to pass certain other laws, unless the persons to be benefited by them would relinquish the inestimable right of representation in the legislature ; by dissolving legislative assemblies repeatedly and continually, for opposing with manly firmness his invasions of the rights of the people ; when dissolved, by refusing to call others for a long space of time, thereby leaving the political system without any legislative head ; by endeavoring to prevent the population of our country, and for that purpose obstructing the laws for naturalization of foreigners ; by keeping among us, in time of peace, standing armies and ships of war ; by affecting to render the military independent of and superior to the civil power ; by combining with others to subject us to a foreign jurisdiction, giving his assent to their pretended acts of legislation, for quartering large bodies of armed troops among us, for cutting off our trade with all parts of the world, for imposing taxes on us without our consent, for depriving us of

the benefit of the trial by jury, for transporting us beyond seas for trial for pretended offences, for suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever; by plundering our seas, ravaging our coasts, burning our towns, and destroying the lives of our people; by inciting insurrections of our fellow-subjects with the allurements of forfeiture and confiscation; by prompting our negroes to rise in arms among us—those very negroes whom, by an inhuman use of his negative, he had refused us permission to exclude by law; by endeavoring to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions of existence; by transporting hither a large army of foreign mercenaries to complete the work of death, desolation and tyranny, then already begun, with circumstances of cruelty and perfidy unworthy the head of a civilized nation; by answering our repeated petitions for redress with a repetition of injuries; and finally, by abandoning the helm of government and declaring us out of his allegiance and protection; by which several acts of misrule the government of this country, as before exercised under the crown of Great Britain, was totally dissolved—did, therefore, having maturely considered the premises, and viewing with great concern the deplorable condition to which this once happy country would be reduced unless some regular, adequate mode of civil policy should be speedily adopted, and in compliance with the recommendation of the general congress, ordain and declare a form of government of Virginia :

And whereas, a convention, held on the first Monday in October, in the year one thousand eight hundred and twenty-nine, did propose to the people of the Commonwealth an amended constitution, or form of government, which was ratified by them :

And whereas, the General Assembly of Virginia, by an act passed on the fourth of March, in the year one thousand eight hundred and fifty, did provide for the election, by the people, of delegates to meet in general convention, to consider, discuss and propose a new constitution, or alterations and amendments to the existing constitution of this Commonwealth; and by an act passed on the thirteenth of March, in the year one thousand eight hundred and fifty-one, did further provide for submitting the same to the people for ratification or rejection; and the same having been submitted accordingly, was ratified by them :

And whereas, the General Assembly of Virginia, by an act passed on the twenty-first day of December, in the year one thousand eight hundred and sixty-three, did provide for the election, by the people, of delegates to meet in general convention to consider, discuss and adopt alterations and amendments to the existing constitution of this Commonwealth, the delegates so assembled did, therefore, having maturely considered the premises, adopt a revised and amended constitution as the form of government of Virginia :

And whereas, the Congress of the United States did, by an act passed on the second day of March, in the year one thousand eight hundred and sixty-seven, and entitled "An act to provide for the more efficient government of the rebel States," and by acts supplementary thereto, passed on the twenty-third day of March, and the nineteenth day of July, in the year one thousand eight hundred and sixty-seven, provide for the election, by the people of Virginia, qualified to vote under the provisions of said acts, of delegates to

meet in convention to frame a constitution, or form of government for Virginia, in conformity with said acts ; and by the same acts did further provide for the submitting of such constitution to the qualified voters for ratification or rejection :

We, therefore, the delegates of the good people of Virginia, elected and in convention assembled, in pursuance of said acts, invoking the favor and guidance of Almighty God, do propose to the people the following Constitution and form of government for this Commonwealth :

ARTICLE I.

BILL OF RIGHTS.

The declaration of the political rights and privileges of the inhabitants of this State is hereby declared to be a part of the Constitution of this Commonwealth, and shall not be violated on any pretence whatever.

ARTICLE II.

DIVISION OF POWERS.

The Legislative, Executive and Judiciary Departments shall be separate and distinct, so that neither exercise the powers properly belonging to either of the others ; nor shall any person exercise the power of more than one of them at the same time, except as hereinafter provided.

NO. 2.—REPORT OF THE COMMITTEE ON THE EXECUTIVE DEPARTMENT.

GOVERNOR.

SECTION 1. The chief executive power of this Commonwealth shall be vested in a Governor. He shall hold the office for the term of four years, to commence on the first day of January next succeeding his election, and be ineligible to the same office for the next term succeeding that for which he was elected, and to any other office during his term of service.

SEC. 2. The Governor shall be elected by the voters at the times and places of choosing members of the General Assembly. Returns of elections shall be transmitted, under seal, by the proper officers, to the Secretary of the Commonwealth, who shall deliver them to the Speaker of the House of Delegates on the first day of the next session of the General Assembly. The Speaker of the House of Delegates shall, within one week thereafter, in presence of a majority of the Senate and House of Delegates, open the said returns, and the votes shall then be counted. The person having the highest number of votes shall be declared elected; but if two or more shall have the highest and an equal number of votes, one of them shall be chosen Governor by the joint vote of the two Houses of the General Assembly. Contested elections for Governor shall be decided by a like vote; and the mode of proceeding in such cases shall be prescribed by law.

SEC. 3. No person except a citizen of the United States shall be eligible to the office of Governor; and if such person be of foreign birth, he must have been a citizen of the United States for ten years next preceding his election; nor shall any person be eligible to that office unless he shall have attained the age of thirty years, and have been a resident of this State for three years next preceding his election.

SEC. 4. The Governor shall reside at the seat of government; shall receive five thousand dollars for each year of his service; and, while in office, shall receive no other emolument from this or any other government.

SEC. 5. He shall take care that the laws be faithfully executed; communicate to the General Assembly, at every session, the condition of the Commonwealth; recommend to their consideration such measures as he may deem expedient, and convene the General Assembly, on application of two-thirds of the members of both Houses thereof, or when, in his opinion, the interest of the Commonwealth may require it. He shall be Commander-in-Chief of the land and naval forces of the State; have power to embody the militia to repel invasion, suppress insurrection and enforce the execution of the laws; conduct, either in person or in such other manner as shall be prescribed by law, all intercourse with other and foreign States; and, during the recess of the General Assembly, fill *pro tempore* all vacancies in those offices for which the Constitution and laws make no provision; but his ap-

pointments to such vacancies shall be by commissions to expire at the end of thirty days after the commencement of the next session of the General Assembly. He shall have power to remit fines and penalties in such cases and under such rules and regulations as may be prescribed law; and, except when the prosecution has been carried on by the House of Delegates, to grant reprieves and pardons after conviction; to remove political disabilities consequent upon conviction for offences committed prior or subsequent to the adoption of this Constitution, and to commute capital punishment; but he shall communicate to the General Assembly, at each session, the particulars of every case of fine or penalty remitted, of reprieve or pardon granted, and of punishment commuted, with his reasons for remitting, granting or commuting the same.

SEC. 6. He may require information in writing from the officers in the Executive Department upon any subject relating to the duties of their respective offices; and may also require the opinion, in writing, of the Attorney-General upon any question of law connected with his official duties.

SEC. 7. Commissions and grants shall run in the name of the Commonwealth of Virginia, and be attested by the Governor, with the seal of the Commonwealth annexed.

SEC. 8. Every bill which shall have passed the Senate and House of Delegates, and every resolution requiring the assent of both branches of the General Assembly, shall, before it becomes a law, be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider it. If, after such consideration, two-thirds of the members present shall agree to pass the bill or joint resolution, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members present it shall become a law, notwithstanding the objections of the Governor. But in all such cases the votes of both Houses shall be determined by ayes and noes, and the names of the members voting for and against the bill or joint resolution shall be entered on the Journal of each House respectively. If any bill or resolution shall not be returned by the Governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Legislature shall, by their adjournment, prevent its return, in which case it shall not be a law.

LIEUTENANT-GOVERNOR.

SEC. 9. A Lieutenant-Governor shall be elected at the same time, and for the same term as the Governor, and his qualification and the manner of his election, in all respects, shall be the same.

SEC. 10. In case of the removal of the Governor from office, or of his death, failure to qualify, resignation, removal from the State, or inability to discharge the powers and duties of the office, the said office, with its compensation, shall devolve upon the Lieutenant-Governor; and the General Assembly shall provide by law for the discharge of the executive functions in other necessary cases.

SEC. 11. The Lieutenant-Governor shall be President of the Senate, but shall have no vote except in case of an equal division; and while acting as

such, shall receive a compensation equal to that allowed to the Speaker of the House of Delegates.

**SECRETARY OF THE COMMONWEALTH, TREASURER AND
AUDITOR.**

SEC. 12. A Secretary of the Commonwealth, Treasurer and Auditor of Public Accounts, shall be elected by the joint vote of the two Houses of the General Assembly, and continue in office for the term of two years, unless sooner relieved. The salary of each shall be determined by law.

SEC. 13. The Secretary shall keep a record of the official acts of the Governor, which shall be signed by the Governor and attested by the Secretary; and when required, he shall lay the same, and any papers, minutes and vouchers pertaining to his office, before either House of the General Assembly; and shall perform such other duties as may be prescribed by law. All fees received by the Secretary shall be paid into the treasury.

SEC. 14. The powers and duties of the Treasurer and Auditor shall be such as now are, or may be hereafter, prescribed by law.

SEC. 15. There may be established in the office of the Secretary of State a Bureau of Statistics and a Bureau of Agricultural Chemistry and Geology, under such regulations as may be prescribed by law.

SEC. 16. The General Assembly shall have power to establish a Bureau of Agriculture and Immigration under such regulations as may be prescribed.

BOARD OF PUBLIC WORKS.

SEC. 17. There shall be a Board of Public Works, to consist of the Governor, Auditor and Treasurer of the Commonwealth, under such regulations as may be prescribed by law. The Secretary of the Commonwealth shall discharge the duties of Clerk of the Board of Public Works.

NO. 3.—REPORT OF THE COMMITTEE ON TAXATION AND FINANCE.

SECTION 1. Taxation, except as hereinafter provided, whether imposed by the State, county or corporate bodies, shall be equal and uniform, and all property, both real and personal, shall be taxed in proportion to its value, to be ascertained as prescribed by law. No one species of property, from which a tax may be collected, shall be taxed higher than any other species of property of equal value.

SEC. 2. No tax shall be imposed on any of the citizens of this State for the privilege of taking or catching oysters from their natural beds with tongs, in the waters thereof; but the amount of sales of oysters so taken by any citizen, in any one year, may be taxed at a rate not exceeding the rate of taxation imposed upon any other species of property.

SEC. 3. The Legislature may exempt all property used exclusively for State, county, municipal, benevolent, charitable, educational and religious purposes.

SEC. 4. The General Assembly may levy a tax on incomes in excess of (\$600) six hundred dollars per annum, and upon the following licenses, viz: the sale of ardent spirits, theatrical and circus companies, menageries, jugglers, itinerant peddlers, and all other shows and exhibitions for which an entrance fee is required, commission merchants, persons selling by sample, brokers and pawn-brokers, and all other business which cannot be reached by the *ad valorem* system. The capital invested in all business operations shall be assessed and taxed as other property. Assessments upon all stock shall be according to the market value thereof.

SEC. 5. The General Assembly may levy a tax, not exceeding one dollar per annum, on every male citizen who has attained the age of twenty-one years, which shall be applied exclusively in aid of public free schools; and counties and corporations shall have power to impose a capitation tax not exceeding (50) fifty cents per annum, for all purposes.

SEC. 6. The General Assembly shall provide for a re-assessment of the real estate of this State in the year 1869, or as soon thereafter as practicable, and on every fifth year thereafter: Provided, in making such assessment, no land shall be assessed above or below its value.

SEC. 7. No debt shall be contracted by this State except to meet casual deficits in the revenue to redeem a previous liability of the State, to suppress insurrection, repel invasion, or defend the State in time of war.

SEC. 8. The General Assembly shall provide, by law, a sinking fund, to be applied solely to the payment and extinguishment of the principal of the State

debt, which sinking fund shall be continued until the extinguishment of such State debt; and every law hereafter enacted by the General Assembly, creating a debt or authorizing a loan, shall provide a sinking fund for the payment of the same.

SEC. 9. The unfunded debt shall not be funded or redeemed at a value exceeding that established by law at the time said debt was contracted, nor shall any discrimination hereafter be made in paying the interest on State bonds, which shall give a higher actual value to bonds held in foreign countries, over the same class of bonds held in this country.

SEC. 10. No money shall be paid out of the State Treasury except in pursuance appropriations made by law; and no appropriation shall ever be made for the payment of any debt or obligation created in the name of the State of Virginia, by the usurped and pretended State authorities assembled at Richmond during the late war; and no county, city or corporation shall levy or collect any tax for the payment of any debt created for the purpose of aiding any rebellion against the State, or against the United States.

SEC. 11. On the passage of every act which imposes, continues or receives any appropriation of public or trust money, or property, or releases, discharges or commutes any claim or demand of the State, the vote shall be determined by ayes and noes, and the names of the persons voting for and against the same shall be entered on the journals of the respective Houses, and a majority of all the members elected to each House shall be necessary to give it the force of a law.

SEC. 12. The credit of the State shall not be granted to, or in aid of, any person, association or corporation.

SEC. 13. No scrip, certificate or other evidence of State indebtedness shall be issued except for the redemption of stock previously issued, or for such debts as are expressly authorized in this Constitution.

SEC. 14. The State shall not subscribe to, or become interested in, the stock of any company, association or corporation.

SEC. 15. The State shall not be a party to, or become interested in, any work of internal improvement, nor engage in carrying on any such work, otherwise than in the expenditure of grants to the State of land or other property.

SEC. 16. Every law which imposes, continues, or revives a tax, shall distinctly state the tax, and the object to which it is to be applied, and it shall not be sufficient to refer to any other law, to fix such tax or object.

SEC. 17. The State shall not assume any indebtedness of a county, borough, or city, nor lend its credit to the same.

SEC. 18. A full account of the State indebtedness, and an accurate statement of receipts and expenditures of the public money, shall be attached to and published with its laws, passed at every regular session of the General Assembly.

SEC. 19. The General Assembly shall provide by law for adjusting with the State of West Virginia the proportion of the public debt of Virginia, proper to be borne by the State of Virginia and West Virginia, and shall provide that such sum as shall be received from West Virginia shall be applied to the payment of the public debt of the State.

SEC. 20. No other or greater amount of tax or revenue shall at any time be levied than may be required for the necessary expenses of the government, or to pay the existing indebtedness of the State.

SEC. 21. The liability to the State of any incorporated company or institution to redeem the principal and pay the interest of any loan heretofore made by the State to such company or institution, shall not be released or commuted.

NO. 4.—REPORT OF THE COMMITTEE ON ELECTIVE FRANCHISE AND QUALIFICATIONS FOR OFFICE.

SECTION 1. Every male citizen of the United States, twenty-one years old, who shall have been a resident of this State twelve months, and of the county, city or town in which he shall offer to vote three months next preceding any election, shall be entitled to vote upon all questions submitted to the people at such election: Provided, That no officer, soldier, seaman, or marine of the United States army or navy shall be considered a resident of this State by reason of being stationed therein: And provided also, That the following persons shall be excluded from voting:

1st. Idiots and lunatics.

2d. Persons convicted of bribery in any election, embezzlement of public funds, treason or felony.

3d. No person who, while a citizen of this State, has, since the adoption of this Constitution, fought a duel with a deadly weapon, sent or accepted a challenge to fight a duel with a deadly weapon, either within or beyond the boundaries of this State, or knowingly conveyed a challenge, or aided or assisted in any manner in fighting a duel, shall be allowed to vote or hold any office of honor, profit or trust, under this Constitution.

4th. Every person who has been a senator or representative in Congress, or elector of President or Vice-President, or who held any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. This clause shall include the following officers: Governor, Lieutenant-Governor, Secretary of State, Auditor of Public Accounts, Second Auditor, Register of the Land Office, State Treasurer, Attorney-General, Sheriffs, Sergeant of a city or town, Commissioner of the Revenue, County Surveyors, Constables, Overseers of the Poor, Commissioner of the Board of Public Works, Judges of the Supreme Court, Judge of the Circuit Courts, Judge of the Court of Hustings, Justices of the County Courts, Mayor, Recorder, Aldermen, Town Councilman of a city or town, Coroners, Escheators, Inspectors of Tobacco, Flour, &c., Clerks of the Supreme, District, Circuit and County Courts, and of the Court of Hustings, and Attorneys for the Commonwealth: Provided, That the Legislature may, by a vote of three-fifths of both Houses, remove the disabilities incurred by this clause from any person included therein, by a separate vote in each case.

SEC. 2. All elections shall be by ballot, and all persons entitled to vote shall be eligible to any office within the gift of the people, except as restricted in this Constitution.

SEC. 3. All persons entitled to vote and hold office, and none other, shall be eligible to sit as jurors.

SEC. 4. The General Assembly shall, at its first session under this Constitution, enact a general registration law; and every person offering or applying to register shall take and subscribe, before the officer charged with making a registration of voters, the following oath:

"I, ———, do voluntarily swear (or affirm) that I am not disqualified from exercising the right of suffrage by the Constitution framed by the Convention which assembled in the city of Richmond on the third day of December, 1867, and that I will support and defend the same to the best of my ability."

SEC. 5. No voter, during the time of holding any election at which he is entitled to vote, shall be compelled to perform military service, except in time of war or public danger, to work upon public roads, or to attend any court as suitor, juror or witness; and no voter shall be subject to arrest under any civil process during his attendance at elections, or in going to or returning from them.

OATH OF OFFICE.

All persons, before entering upon the discharge of any function as officers of this State, must take and subscribe the following oath or affirmation:

"I, ———, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of the State of Virginia; that I recognize and accept the civil and political equality of all men before the laws, and that I will faithfully perform the duty of ——— to the best of my ability. So help me God."

SEC. 6. In addition to the foregoing oath of office, the Governor, Lieutenant-Governor, members of the General Assembly, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney-General, all persons elected to any convention to frame a constitution for this State, or to change, alter or abridge this Constitution in any manner, and Mayor and Council of any city or town, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: Provided, The disabilities therein contained may be individually removed by a two-thirds vote of the General Assembly:

"I do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel or encouragement to persons engaged in armed hostility thereto; that I have never sought nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

"The above oath shall also be taken by all city and county officers before entering upon their duties, and by all other State officers not included in the above provision."

NO. 5.—REPORT OF THE COMMITTEE ON COUNTY COURTS AND COUNTY AND CITY ORGANIZATIONS.

ARTICLE —.

SECTION 1. For each county or district of the Commonwealth there shall be elected, by joint vote of the two Houses of the General Assembly, one County Judge, who shall hold the County Court thereof, with such criminal and civil jurisdiction as shall be fixed by law; one Sheriff; one Attorney for the Commonwealth, who shall also be the Commonwealth's Attorney for the Circuit Court; one County Clerk, who shall also be the Clerk of the Circuit Court, except that in counties containing fifteen thousand inhabitants there may be a separate Clerk for the Circuit Court; one County Treasurer; one Superintendent of the Poor; one Superintendent of Schools: *Provided*, That counties containing less than eight thousand inhabitants may be attached to adjoining counties for the formation of districts for Superintendents of Schools and County Judges: *Provided also*, That in counties containing thirty thousand inhabitants there may be appointed an additional Superintendent of Schools therein. All regular elections for county officers shall be held on the first Tuesday after the first Monday in November, and all officers elected or appointed under this provision shall enter upon the duties of their offices on the first day of January next succeeding their election, and shall hold their offices for the term of three years, except that the County and Circuit Court Clerks shall hold their offices for four years: *Provided further*, That after the end of the first term the County Judges shall be elected or appointed for the term of six years.

TOWNSHIPS.

SEC. 2. Each county of the State shall be divided into so many compactly located townships as may be deemed necessary, not less than three: *Provided*, That after three have been formed no additional township shall be made containing less than thirty square miles. Each township shall be known as the township of —, in the county of —, and may sue and be sued by such title. In each township there shall be elected annually: one Supervisor; one Township Clerk; one Assessor; one Collector; one Commissioner of Roads; one Overseer of the Poor; one Justice of the Peace, who shall hold his office three years; one Constable, who shall hold his office three years: *Provided*, That at the first election held under this provision there shall be three Justices of the Peace and three Constables elected, whose terms shall be one, two and three years, respectively. All regular elections for township officers shall take place on the fourth Monday in May, and all officers so elected shall enter upon the duties of their respective offices on the first day of July next succeeding their election. The Supervisors of each county shall constitute the Board of Supervisors for that coun-

ty, and shall assemble at the Courthouse thereof on the first Monday in December, in each year, and proceed to audit the accounts of said county, examine the books of the Assessors, regulate and equalize the valuation of property, fix the county levies for the ensuing year, apportion the same among the various townships, and perform such other duties as shall be prescribed by law.

SCHOOL DISTRICTS.

SEC. 3. Each township shall be divided into so many compactly located school districts as may be deemed necessary: *Provided*, that no school district shall be formed containing less than one hundred inhabitants. In each school district there shall be elected or appointed annually one School Trustee, who shall hold his office three years: *Provided*, that at the first election held under this provision there shall be three Trustees elected, whose terms shall be one, two and three years, respectively.

ROAD DISTRICTS.

SEC. 4. Each township shall be divided into one or more districts. In each road district there shall be elected annually one Overseer of Roads, under whose direction the roads shall be kept in repair, at the public expense, in a mode prescribed by law.

SEC. 5. The General Assembly, at its first session after the adoption of this Constitution, shall pass such laws as may be necessary to give effect to the provisions of this article. But nothing in this article shall be construed as prohibiting the General Assembly from providing, by law, for any additional officers in any city or county.

SEC. 6. Sheriffs shall hold no other office. They may be required, by law, to renew their security, and in default of so doing their offices shall be declared vacant. Counties shall never be made responsible for the acts of the sheriffs.

ARTICLE —.

GOVERNMENT OF CITIES AND TOWNS.

SECTION 1. For each city or town in the State, containing a population of five thousand, there shall be elected, on the joint vote of the two Houses of the General Assembly, one city judge, who shall hold a Corporation or Hustings Court of said city or town, as often, and as many days in each month, as may be prescribed by law, with similar jurisdiction which may be given by law, to the Circuit Courts of this State, and who shall hold his office for a term of six (6) years: *Provided*, that in cities or towns containing thirty thousand (30,000) inhabitants, there may be elected an additional judge to hold Courts of Probate and Record, separate and apart from the Corporation or Hustings Courts, and perform such other duties as shall be prescribed by law.

SEC. 2. Also the following enumerated officers, who shall be elected by the qualified voters of the said cities or towns: One clerk of the Corporation or Hustings Court, who shall also be the clerk of the Circuit Court, except in cities or towns containing a population of thirty thousand (30,000) or more, in which city or town there may be a separate clerk for the Circuit Court who shall hold his office for a term of six years.

SEC. 3. One Commonwealth's Attorney, who shall be the Commonwealth's Attorney for the Circuit Court, and shall hold his office for a term of two years.

SEC. 4. One City Sergeant, who shall hold his office for a term of two years.

SEC. 5. One city or town Treasurer, whose duties shall be similar to those of County Treasurer, and shall hold his office for a term of three years.

SEC. 6. One Commissioner of the Revenue.

SEC. 7. There shall be chosen by the electors of every city a Mayor, who shall be the chief executive officer thereof, and who shall see that the duties of the various city officers are faithfully performed. He shall have power to investigate their acts, have access to all books and documents in their offices, and may examine them and their subordinates on oath. The evidence given by persons so examined shall not be used against them in any criminal proceedings. He shall also have power to suspend or remove such officers, whether they be elected or appointed, for misconduct in office or neglect of duty, to be specified in the order of suspension or removal: but no such removal shall be made without reasonable notice to the officer complained of, and an opportunity afforded him to be heard in his defence. All city, town and village officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of such cities, towns and villages, or of some division thereof, or appointed by such authorities thereof as the General Assembly shall designate. All other officers whose election or appointment is not provided for by this Constitution, and all officers whose offices may be hereafter created by law, shall be elected by the people, or appointed, as the General Assembly may direct. Members of common councils shall hold no other office in cities, and no city officer shall hold a seat in the General Assembly. The General Assembly, at its first session after the adoption of this Constitution, shall pass such laws as may be necessary to give effect to the provisions of this article. General laws shall be passed for the organization and government of cities, and no special act shall be passed, except in cases where, in the judgment of the General Assembly, the object of such act cannot be attained by general laws. Nothing in this article shall affect the power of the General Assembly over quarantine, or in regard to the port of Norfolk, or the interest of the State in the lands under water and within the jurisdiction or boundaries of any city, or to regulate the wharves, piers or slips in any city. All laws or city ordinances in conflict with the provisions of the preceeding sections shall be void from and after the adoption of this Constitution.

SEC. 8. All regular elections for city or town officers, under this ordinance, shall be held on the fourth (4th) Monday in May, and the officers elect shall enter upon their duties on the first day of July succeeding.

NO. 6.—REPORT OF THE COMMITTEE ON THE JUDICIARY DEPARTMENT.

SECTION 1. There shall be a supreme court of appeals, circuit courts and county courts. The jurisdiction of these tribunals, and the judges thereof, except so far as the same is conferred by this Constitution, shall be regulated by law.

COURT OF APPEALS.

SEC. 2. The supreme court of appeals shall consist of five judges, any three of whom may hold a court. It shall have appellate jurisdiction except only in cases of *habeas corpus*, *mandamus* and prohibition. It shall not have jurisdiction in civil cases where the matter in controversy, exclusive of costs, is less in value or amount than five hundred dollars, except in controversies concerning the title or boundaries of land, the probate of a will, the appointment or qualification of a personal representative, guardian, committee or curator; or concerning a mill, roadway, ferry or landing; or the right of a corporation or of a county to levy tolls or taxes, and except in cases of *habeas corpus*, *mandamus* and prohibition, or the constitutionality of a law: Provided, that the assent of a majority of the judges elected to the said court shall be required, in order to declare any law null and void by reason of its repugnance to the Federal Constitution, or to the Constitution of this State.

SEC. 3. Special courts of appeals, to consist of not less than three nor more than five judges, may be formed of the judges of the supreme court of appeals and of the circuit courts, or any of them, to try any cases on the dockets of said court, in respect to which a majority of the judges thereof may be so situated as to make it improper for them to sit on the hearing of the same; and also to try any cases on the said docket which cannot be otherwise disposed of with convenient dispatch.

SEC. 4. When a judgment or decree is reversed or affirmed by the supreme court of appeals, the reasons therefor shall be stated in writing, and preserved with the record of the case.

SEC. 5. The judges shall be chosen by the joint vote of the two houses of the General Assembly, and shall hold their office for a term of twelve years; they shall, when chosen, have held a judicial station in the United States, or shall have practiced law in this or some other State for five years.

SEC. 6. The officers of the supreme court of appeals shall be appointed by the said court, or by the judges thereof in vacation. Their duties, compensation and tenure of office shall be prescribed by law.

SEC. 7. The supreme court of appeals shall hold its session at two or more places in the State, to be fixed by law.

SEC. 8. At every election of a Governor an Attorney-General shall be elected by the qualified voters of this Commonwealth; he shall be commis-

sioned by the Governor, perform such duties and receive such compensation as may be prescribed by law, and removable in a manner prescribed for the removal of judges.

CIRCUIT COURTS.

SEC. 9. The State shall be divided into sixteen judicial circuits, as follows :

1. The counties of Norfolk, Princess Anne, Nansemond, Isle of Wight, Southampton, Surry and the city of Norfolk shall constitute the first circuit.

2. The counties of Sussex, Greensville, Brunswick, Prince George, Dinwiddie, Nottoway, Chesterfield and the city of Petersburg shall constitute the second circuit.

3. The counties of Mecklenburg, Lunenburg, Charlotte, Amelia, Powhatan, Prince Edward, Buckingham and Cumberland shall constitute the third circuit.

4. The counties of Halifax, Pittsylvania, Henry, Patrick, Franklin and the town of Danville shall constitute the fourth circuit.

5. The counties of Bedford, Campbell, Appomattox, Amherst, Nelson and the city of Lynchburg shall constitute the fifth circuit.

6. The counties of Albemarle, Fluvanna, Culpeper, Goochland, Madison, Greene and Orange shall constitute the sixth circuit.

7. The county of Henrico and the city of Richmond shall constitute the seventh circuit.

8. The counties of Accomac, Northampton, York, Elizabeth City, Warwick, James City, New Kent, Charles City and the city of Williamsburg shall constitute the eighth circuit.

9. The counties of Lancaster, Northumberland, Mathews, Middlesex, Gloucester, King William, Essex and King & Queen shall constitute the ninth circuit.

10. The counties of Westmoreland, Spotsylvania, Caroline, Hanover, Stafford, King George, Richmond and Louisa shall constitute the tenth circuit.

11. The counties of Loudoun, Fauquier, Fairfax, Prince William, Rappahannock and Alexandria shall constitute the eleventh circuit.

12. The counties of Frederick, Clarke, Warren, Page, Shenandoah and Rockingham shall constitute the twelfth circuit.

13. The counties of Augusta, Rockbridge, Bath, Highland and Alleghany, shall constitute the thirteenth circuit.

14. The counties of Botetourt, Roanoke, Montgomery, Floyd, Giles and Craig shall constitute the fourteenth circuit.

15. The counties of Carroll, Grayson, Wythe, Pulaski, Bland and Tazewell shall constitute the fifteenth circuit.

16. The counties of Smyth, Washington, Lee, Scott, Wise, Russell, and Buchanan shall constitute the sixteenth circuit.

SEC. 10. The General Assembly may re-arrange said circuits, or any of them, and increase or diminish the number thereof, when the public interests shall require it.

SEC. 11. For each circuit a judge shall be chosen by the joint vote of the two Houses of the General Assembly, who shall hold his office for a term of eight years, unless sooner removed in the manner prescribed by this Constitution. He shall, when chosen, possess the same qualifications of judges of the supreme court of appeals; and during his continuance in office, shall reside in the circuit of which he is judge.

Sec. 12. A circuit court shall be held, at least twice a year, by the judges of each circuit, in every county and corporation thereof, wherein a circuit court is now or may hereafter be established. But the judges may be required or authorized to hold the courts of their respective circuits alternately, and the judge of one circuit to hold court in any other circuit.

COUNTY AND CORPORATION COURTS.

County Courts.

Sec. 13. In each county of this Commonwealth there shall be a court, called the county court, which shall be held monthly by a judge learned in the law of the State, and to be known as the county court judge: Provided, that counties containing less than ——— thousand inhabitants shall be attached to adjoining counties for the formation of districts for county judges. County court judges shall be appointed in the same manner as judges of the circuit courts; shall hold their office for a term of eight years; and, at the time of election and during continuance in office, shall reside in their respective counties or districts. The jurisdiction of said courts shall be the same as that of the existing county courts, except so far as it is modified by this Constitution, or may be changed by law.

CORPORATION COURTS.

Sec. 14. The General Assembly may vest such jurisdiction as may be deemed necessary in corporation courts, which shall be held by a judge chosen in the same manner, with like qualifications and for same terms as judges of county courts. And all officers appertaining to cities and other municipal corporations, shall be elected or appointed by the constituted authorities thereof in the manner prescribed by law.

Sec. 15. All the judges shall be commissioned by the Governor, and shall receive such salaries and allowances as may be determined by law, the amount of which shall not be diminished during their term of office.

Sec. 16. Judges may be removed from office by a concurrent vote of both Houses of the General Assembly, but a majority of all the members elected to each House must concur in such vote, and the cause of removal shall be entered on the journal of each House. The judge against whom the General Assembly may be about to proceed, shall have notice thereof, accompanied by a copy of the causes alleged for his removal, at least twenty days before the day on which either House of the General Assembly shall act thereon.

Sec. 17. Judges of the supreme court of appeals and judges of the circuit courts shall not hold any other office or public trust during their continuance in office.

Sec. 18. Judges, and all other officers elected or appointed, shall continue to discharge the duties of their offices after their terms of service have expired, until their successors have qualified.

Sec. 19. Writs shall run in the name of the Commonwealth of Virginia, and be attested by the clerks of the several courts. Indictments shall conclude against the peace and dignity of the Commonwealth.

NO. 7.—REPORT OF THE COMMITTEE ON EDUCATION.

SECTION 1. The General Assembly shall elect, on joint ballot, within thirty days after its organization under this Constitution, and every fourth year thereafter, a Superintendent of Public Instruction. He shall have the general supervision of the public free school interests of the State, and shall report to the General Assembly for its consideration, within thirty days after his election, a uniform system of public free schools.

SEC. 2. There shall be a Board of Education, composed of the Governor, Superintendent of Public Instruction and Attorney-General, which shall appoint, and have power to remove, for cause and upon notice to the incumbents, subject to confirmation by the Senate, all County Superintendents of public free schools. This board shall have, regulated by law, the management and investment of all the school funds, and such supervision of schools of higher grades as the law shall provide.

SEC. 3. The General Assembly shall provide by law, at its first session under this Constitution, a uniform system of public free schools, and for its gradual, equal and full introduction into all the counties of the State, by the year 1876, or as much earlier as practicable.

SEC. 4. The General Assembly shall have power, after a full introduction of the public free school system, to make such laws as shall not permit parents and guardians to allow their children to grow up in ignorance and vagrancy.

SEC. 5. The General Assembly shall establish, as soon as practicable, normal schools, and may establish such grades of schools and agricultural schools as shall be for the public good.

SEC. 6. The Board of Education shall provide for uniformity of text-books, the providing of school-houses, and such apparatus and library as may be necessary, under such regulations as may be provided by law.

SEC. 7. The General Assembly shall set apart, as a permanent and perpetual literary fund, the present literary funds of the State, the proceeds of all public lands donated by Congress for public school purposes, of all escheated property, of all waste and unappropriated lands, of all property accruing to the State by forfeiture, and all fines collected for offences committed against the State, and such other sums as the General Assembly may appropriate.

SEC. 8. The General Assembly shall apply the annual interest on the literary fund, any capitation or other special tax provided for by this Constitution for public free school purposes, and an annual tax upon the property of the State of not less than one mill nor more than five mills on the dollar, for the equal benefit of all the people of the State, the number of children between the ages of five and twenty-one years, in each public free school district, being the basis of such division. Provision shall be made to supply

necessary text-books to indigent children attending the public free schools, in cases where the parent or guardian is unable, by reason of poverty, to furnish them. Each county and public free school district may raise additional sums by a tax on property for the support of public free schools. All unexpended sums of any one year in any public free school district shall go into the general school fund for re-division the next year: Provided, That any tax authorized by this section to be raised by counties or school districts shall not exceed five mills on a dollar in any one year, and shall not be subject to re-division as hereinbefore provided in this section.

Sec. 9. The General Assembly shall have power to foster all higher grades of schools under its supervision, and to provide for such purpose a permanent educational fund.

Sec. 10. All grants and donations received by the General Assembly for educational purposes shall be applied according to the terms prescribed by the donors.

Sec. 11. The General Assembly shall fix the salaries and prescribe the duties of all school officers, and shall make all needful laws and regulations to carry into effect the public free school system provided for by this article.

NO. 8.—REPORT OF THE COMMITTEE ON THE BASIS OF REPRESENTATION AND APPORTIONMENT.

District No.	1—Accomac shall have two delegates.
" "	2—Albemarle shall have three delegates.
" "	3—Amelia shall have one delegate.
" "	4—Alexandria shall have two delegates.
" "	5—Amherst shall have two delegates.
" "	6—Appomattox shall have one delegate.
" "	7—Alleghany and Craig shall have one delegate.
" "	8—Augusta shall have three delegates.
" "	9—Bath and Highland shall have one delegate.
" "	10—Bedford shall have three delegates.
" "	11—Bland shall have one delegate.
" "	12—Botetourt shall have one delegate.
" "	13—Brunswick shall have one delegate.
" "	14—Buckingham shall have two delegates.
" "	15—Buchanan and Wise shall have one delegate.
" "	16—Campbell shall have three delegates.
" "	17—Caroline shall have two delegates.
" "	18—Carroll shall have one delegate.
" "	19—Charles City shall have one delegate.
" "	20—Charlotte shall have two delegates.
" "	21—Chesterfield shall have two delegates.
" "	22—Cumberland shall have one delegate.
" "	23—Culpeper shall have one delegate.
" "	24—Clarke shall have one delegate.
" "	25—Dinwiddie shall have one delegate.
" "	26—Elizabeth City and Warwick shall have two delegates.
" "	27—Essex shall have one delegate.
" "	28—Fauquier shall have two delegates.
" "	29—Fairfax shall have one delegate.
" "	30—Floyd shall have one delegate.
" "	31—Franklin shall have two delegates.
" "	32—Fluvanna shall have one delegate.
" "	33—Frederick shall have one delegate.
" "	34—Giles shall have one delegate.
" "	35—Goochland shall have one delegate.
" "	36—Greensville shall have one delegate.
" "	37—Greene shall have one delegate.
" "	38—Gloucester shall have one delegate.
" "	39—Grayson shall have one delegate.
" "	40—Halifax shall have three delegates.
" "	41—Hanover shall have two delegates.

District No. 42—Henrico and Richmond City shall have eight delegates.

- “ “ 43—Henry shall have one delegate.
- “ “ 44—Isle of Wight shall have one delegate.
- “ “ 45—James City and the City of Williamsburg shall have one delegate.
- “ “ 46—King and Queen shall have one delegate.
- “ “ 47—King William shall have one delegate.
- “ “ 48—King George shall have one delegate.
- “ “ 49—Lancaster shall have one delegate.
- “ “ 50—Lee shall have one delegate.
- “ “ 51—Louisa shall have two delegates.
- “ “ 52—Lunenburg shall have one delegate.
- “ “ 53—Loudoun shall have two delegates.
- “ “ 54—Mathews shall have one delegate.
- “ “ 55—Madison shall have one delegate.
- “ “ 56—Mecklenburg shall have two delegates.
- “ “ 57—Middlesex shall have one delegate.
- “ “ 58—Montgomery shall have one delegate.
- “ “ 59—Nansemond shall have one delegate.
- “ “ 60—New Kent shall have one delegate.
- “ “ 61—Norfolk county and the city of Portsmouth shall have three delegates.
- “ “ 62—Norfolk city shall have two delegates.
- “ “ 63—Nelson shall have one delegate.
- “ “ 64—Nottoway shall have one delegate.
- “ “ 65—Northampton shall have one delegate.
- “ “ 66—Northumberland shall have one delegate.
- “ “ 67—Orange shall have one delegate.
- “ “ 68—Patrick shall have one delegate.
- “ “ 69—Page shall have one delegate.
- “ “ 70—Pittsylvania shall have four delegates.
- “ “ 71—Petersburg city shall have two delegates.
- “ “ 72—Prince Edward shall have one delegate.
- “ “ 73—Prince George shall have one delegate.
- “ “ 74—Prince William shall have one delegate.
- “ “ 75—Pulaski shall have one delegate.
- “ “ 76—Princess Anne shall have one delegate.
- “ “ 77—Rappahannock shall have one delegate.
- “ “ 78—Richmond county shall have one delegate.
- “ “ 79—Rockingham shall have two delegates.
- “ “ 80—Rockbridge shall have two delegates.
- “ “ 81—Roanoke shall have one delegate.
- “ “ 82—Russell shall have one delegate.
- “ “ 83—Shenandoah shall have one delegate.
- “ “ 84—Smyth shall have one delegate.
- “ “ 85—Southampton shall have one delegate.
- “ “ 86—Scott shall have one delegate.
- “ “ 87—Surry shall have one delegate.
- “ “ 88—Stafford shall have one delegate.
- “ “ 89—Sussex shall have one delegate.
- “ “ 90—Spotsylvania shall have one delegate.
- “ “ 91—Tazewell shall have one delegate.

District No. 92—Washington shall have two delegates,

“ “ 93—Warren shall have one delegate.

“ “ 94—Westmoreland shall have one delegate.

“ “ 95—Wythe shall have one delegate.

“ “ 96—York shall have one delegate.

The following shall constitute the senatorial districts :

Alexandria, Fairfax and Loudoun shall form the first district, and be entitled to two senators.

Fauquier, Rappahannock and Prince William shall form the second district, and be entitled to one senator.

Stafford, Spotsylvania and Louisa shall form the fourth district, and be entitled to one senator.

Fluvanna, Goochland and Powhatan shall form the fifth district, and be entitled to one senator.

Albemarle and Greene shall form the sixth district, and be entitled to one senator.

Buckingham and Appomattox shall form the seventh district, and be entitled to one senator.

Nelson and Amherst shall form the eighth district, and be entitled to one senator.

Franklin and Henry shall form the ninth district, and be entitled to one senator.

Pittsylvania shall form the tenth district, and be entitled to one senator.

Campbell shall form the eleventh district, and be entitled to one senator.

Bedford shall form the twelfth district, and be entitled to one senator.

Halifax shall form the thirteenth district, and be entitled to one senator.

Charlotte and Prince Edward shall form the fourteenth district, and be entitled to one senator.

Mecklenburg shall form the fifteenth district, and be entitled to one senator.

King George, Westmoreland, Richmond, Northumberland and Lancaster shall form the sixteenth district, and be entitled to one senator.

Caroline, Essex and King William shall form the seventeenth district, and be entitled to one senator.

Gloucester, Middlesex, Mathews and King and Queen shall form the eighteenth district, and be entitled to one senator.

Richmond city and Henrico county shall form the nineteenth district, and be entitled to three senators.

Norfolk city and Princess Anne county shall form the twentieth district, and be entitled to one senator.

Norfolk county and the city of Portsmouth shall form the twenty-first district, and be entitled to one senator.

Nansemond, Southampton and Isle of Wight shall form the twenty-second district, and be entitled to one senator.

Greensville, Dinwiddie and Sussex shall form the twenty-third district, and be entitled to one senator.

Surry, York, Warwick and Elizabeth City shall form the twenty-fourth district, and be entitled to one senator.

Brunswick and Lunenburg shall form the twenty-fifth district, and be entitled to one senator.

Chesterfield and Prince George shall form the twenty-sixth district, and be entitled to one senator.

The city of Petersburg shall form the twenty-seventh district, and be entitled to one Senator.

Accomac and Northampton shall form the twenty-eighth district, and be entitled to one senator.

Hanover, New Kent, Charles City and James City shall form the twenty-ninth district, and be entitled to one senator.

Cumberland, Amelia and Nottoway shall form the thirtieth district, and be entitled to one senator.

Frederick, Clarke and Shenandoah shall form the thirty-first district, and be entitled to one senator.

Page, Warren and Rockingham shall form the thirty-second district, and be entitled to one senator.

Highland and Augusta shall form the thirty-third district, and be entitled to one senator.

Rockbridge, Bath and Alleghany shall form the thirty-fourth district, and be entitled to one senator.

Botetourt, Roanoke, Craig and Giles shall form the thirty-fifth district, and be entitled to one senator.

Montgomery, Floyd and Patrick shall form the thirty-sixth district, and be entitled to one senator.

Grayson, Carroll and Wythe shall form the thirty-seventh district, and be entitled to one senator.

Pulaski, Bland, Tazewell and Russell shall form the thirty-eighth district, and be entitled to one senator.

Lee, Scott, Wise and Buchanan shall form the thirty-ninth district, and be entitled to one senator.

Washington and Smyth shall form the fortieth district, and be entitled to one senator.

NO. 9.—REPORT OF THE COMMITTEE ON THE LEGISLATIVE DEPARTMENT.

ARTICLE —.

SECTION 1. The legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and House of Delegates.

SEC. 2. The House of Delegates shall be elected biennially by the voters of the several cities and counties on the Tuesday succeeding the first Monday in November.

SEC. 3. The Senators shall be elected for the term of four years, for the election of whom the counties, cities and towns shall be divided into not more than — districts. Each county, city and town of the respective districts, at the time of the first election of its delegate or delegates under this Constitution, shall vote for one or more senators. The senators first elected under this Constitution in districts bearing odd numbers shall vacate their offices at the end of two years, and those elected in districts bearing even numbers at the end of four years; and vacancies occurring by expiration of term shall be filled by the election of senators for the full term.

SEC. 4. At the first session of the General Assembly after the enumeration of the inhabitants of the State by the United States, a re-apportionment of senators and members of the House of Delegates shall be made.

QUALIFICATION OF SENATORS AND DELEGATES.

SEC. 5. Any person may be elected Senator who, at the time of election, is actually a resident within the district, and qualified to vote for members of the General Assembly according to this Constitution; and any person may be elected a member of the House of Delegates who, at the time of election, is actually a resident within the county, city, town or election district, qualified to vote for members of the General Assembly according to this Constitution. The removal of any person elected to either branch of the General Assembly from the city, county, town or district for which he was elected, shall vacate his office.

POWERS AND DUTIES OF THE GENERAL ASSEMBLY.

SEC. 6. The General Assembly shall meet annually, and not oftener, unless convened by the Governor in the manner prescribed in this Constitution. No session of the General Assembly, after the first under this Constitution, shall continue longer than ninety days, without the concurrence of three-fifths of the members elected to each House; in which case the session may be extended for a further period, not exceeding thirty days. Neither House, during the session of the General Assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place

than that in which the two Houses shall be sitting. A majority of the members elected to each House shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and shall have power to compel the attendance of absent members, in such manner, and under such penalty, as each House may prescribe.

SEC. 7. The House of Delegates shall choose its own Speaker, and in the absence of the Lieutenant-Governor, or when he shall exercise the office of Governor, the Senate shall choose, from their own body, a President *pro tempore*; and each House shall appoint its own officers, settle its own rules of proceeding, and direct writs of election for supplying intermediate vacancies; but if vacancies shall occur during the recess of the General Assembly, such writs may be issued by the Governor, under such regulations as may be prescribed by law. Each House shall judge of the election, qualification and returns of its members, may punish them for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

SEC. 8. The members of the General Assembly shall receive for their services a compensation, to be ascertained by law, and paid out of the public treasury, but no act increasing such compensation shall take effect until after the end of the term for which the members of the House of Delegates voting thereon were elected; and no Senator or Delegate, during the term for which he shall have been elected, shall be appointed to any civil office of profit under the Commonwealth, which has been created, or the emoluments of which have been increased, during such term, except offices filled by election by the people.

SEC. 9. Bills and resolutions may originate in either of the two Houses of the General Assembly, to be approved or rejected by either, and may be amended by either House, with the consent of the other.

SEC. 10. Each House of the General Assembly shall keep a journal of its proceedings, which shall be published from time to time, and the yeas and nays of the members of either House, on any question, shall, at the desire of one-fifth of those present, be entered on the journal. No bill shall become a law until it has been read on three different days of the session in the House in which it originated, unless two-thirds of the members in that House shall otherwise determine.

SEC. 11. The members of the General Assembly shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest during the sessions of their respective Houses; and for any speech or debate in either House, they shall not be questioned in any other place. They shall not be subject to arrest, under any civil process, during the session of the General Assembly, nor for fifteen days next before the convening and after the termination of each session.

SEC. 12. The whole number of members to which the State may at any time be entitled in the House of Representatives of the United States, shall be apportioned, as nearly as may be, amongst the several counties, cities and towns of the State, according to their population.

SEC. 13. In the apportionment, the State shall be divided into districts corresponding in number with the representatives to which it may be entitled in the House of Representatives of the Congress of the United States, which shall be formed, respectively, of contiguous counties, cities and

towns, be compact, and include, as nearly as may be, an equal number of population.

SEC. 14. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of invasion or rebellion, the public safety may require it. The General Assembly shall not pass any bill of attainder, or any *ex post facto* law, or any law impairing the obligation of contracts, or any law whereby private property shall be taken for public uses without just compensation, or any law abridging the freedom of speech or of the press. No man shall be compelled to frequent or support any religious worship, place or ministry whatsoever, nor shall any man be enforced, restrained, molested or burthened in his body or goods, or otherwise suffer, on account of his religious opinions or belief, but all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and the same shall in nowise affect, diminish or enlarge their civil capacities. And the General Assembly shall not prescribe any religious test whatever, or confer any peculiar privileges or advantages on any sect or denomination, or pass any law requiring or authorizing any religious society, or the people of any district within this Commonwealth, to levy on themselves or others any tax for the erection or repair of any house of public worship, or for the support of any church or ministry, but it shall be left free to every person to select his religious instructor, and to make for his support such private contract as he shall please.

SEC. 15. No law shall embrace more than one object, which shall be expressed in its title; nor shall any law be revived or amended by reference to its title, but the act revived or the section amended shall be re-enacted and published at length.

SEC. 16. The Governor, Lieutenant-Governor, Judges, and all others offending against the State, by maladministration, corruption, neglect of duty, or other high crime or misdemeanor, shall be impeachable by the House of Delegates, and be prosecuted before the Senate, which shall have the sole power to try impeachment. When sitting for that purpose, they shall be on oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment, in case of impeachment, shall not extend further than to removal from office, and disqualification to hold or enjoy any office of honor, trust or profit under the Commonwealth; but the party convicted shall, nevertheless, be subject to indictment, trial, judgment and punishment, according to law. The Senate may sit during the recess of the General Assembly for the trial of impeachment.

SEC. 17. The General Assembly shall not grant a charter of incorporation to any church or religious denomination, but may secure the title to church property to an extent to be limited by law.

SEC. 18. No lottery shall hereafter be authorized by law; and the buying, selling or transferring of tickets or chances in any lottery shall be prohibited.

SEC. 19. No new county shall be formed with an area of less than six hundred square miles; nor shall the county or counties from which it is formed be reduced below that area; nor shall any county, having a population less than ten thousand, be deprived of more than one-fifth of such population; nor shall a county, having a larger population, be reduced below eight thou-

sand. But any county, the length of which is three times its mean breadth, or which exceeds fifty miles in length, may be divided at the discretion of the General Assembly. In all general elections the voters in any county, not entitled to separate representation, shall vote in the same election district.

SEC. 20. The General Assembly shall confer on the courts the power to grant divorces, change the names of persons, and direct the sale of estates belonging to infants and other persons under legal disabilities, but shall not, by special legislation, grant relief in such cases, or in any other case of which the courts or other tribunals may have jurisdiction.

SEC. 21. The General Assembly shall provide for the annual registration of births, marriages and deaths.

SEC. 22. The manner of conducting and making returns of elections, of determining contested elections, and of filling vacancies in office, in cases not specially provided for by this Constitution, shall be prescribed by law; and the General Assembly may declare the cases in which any office shall be deemed vacant where no provision is made for that purpose in this Constitution.

ORDINANCES

PASSED BY THE

STATE CONSTITUTIONAL CONVENTION.

AN ORDINANCE

Providing for the Payment of certain Witnesses, and for other purposes.

[PASSED FEBRUARY 12, 1868.]

1. The people of Virginia, by their delegates in Convention assembled, do ordain, That the Treasurer of Virginia do pay, upon the certificate of the Secretary of the Convention, to W. A. McNulty and George S. Cady, of Culpeper county, the sum of twenty-one dollars and four cents each; to Jacqueline M. Wood, of Lynchburg, the sum of twenty-five dollars and ten cents, for attendance and travel before the Committee on Privileges and Elections; to James E. Bryant the sum of nineteen dollars and seventy-five cents, for furnishing and repairing locks to the desks of the members of the Convention; to Alfred Thornton the sum of three dollars, for repairs to the clock of the hall of the Convention; to Doggett & Anderson the sum of twenty-one dollars and fifty cents, for matting furnished and laid down in the hall; to B. Wardwell the sum of seventeen dollars and fifty cents, for ice furnished for use of Convention.

2. This ordinance shall be in force from its passage.

A true copy—Attest,

GEORGE RYE, *Secretary.*

